

(8)

3 October 1946

Conrad Cole:

Certificates are
discussed 6897 +

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7027

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

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1 (Whereupon, at 1600, an adjournment
2 was taken until Thursday, 3 October 1946, at
3 0930.)
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3 OCTOBER 1946

I N D E X
of
WITNESSES
(none)

I N D E X
of
EXHIBITS

<u>Pros.</u>	<u>Def.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
622		Telegram from the German Ambassador in Tokyo to the State Secretary dated 2 August 1940		6955
623		Memorandum by the Under Secretary of State (Welles) of the U. S. of America dated 20 Sept 1940. Appears in Vol. I of "Papers Relating to Foreign Relations of the U. S. of America": Japan 1931-1941 (in Two Volumes) Vol. I (pp. 877-881)		6957
624		Memorandum by the Ambassador in Japan (Grew) dated Tokyo 20 Sept 1940		6964
625		Report of a Telephone Conversation Between the Chairman of the French Delegation to the Armistice Commission which took place on 20 Sept 1940		6969

I N D E X
of

EXHIBITS
(cont'd)

<u>Fros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
626		Entry of 9 Sept 1940 from Marquis KIDO's Diary		6971
627		Entry of 14 Sept 1940 from Marquis KIDO's Diary		6972
628		Statement of Japanese Foreign Policy dated 28 Sept 1940		6975
629		Memorandum by Weizsaecker dated Berlin 23 Jan 1941		6981
630		Telegram from Vichy Govern- ment to the Secy of State at Washington dated 28 Jan 1941 signed "Leahy"		6982
631		Two telegrams: first one is dated 9 Feb 1941 and signed by the German Ambassador in Tokyo; the second is dated 21 Feb 1941		6988
632		Extract from the Record concerning the Discussion of the German Foreign Minister with Ambassador OSHIMA in Fischl on 23 Feb 1941	6991	
632-A		Excerpt from the above		6992
633		Letters (2) dated 11 March 1941 exchanged between Foreign Minister MATSUOKA and Ambassador Henri		6993

I N D E X
O F
E X H I B I T S
(cont'd)

Fros. <u>No.</u>	Def. <u>No.</u>	Description	For <u>Ident.</u>	In <u>Evidence</u>
634		Memorandum dated 10 May 1941 from the Chief of Staff of the French Indo- China Expeditionary Force to the Vice-Minister of War KIMURA		7000
635		Telegram dated 21 June 1941 from the German Ambassador in Tokyo to the German Foreign Minister Concerning Conversation the German Am- bassador had with MATSUOKA		7008
636		Telegram from the German Am- bassador in Tokyo dated 3 July 1941 to German Foreign Minister		7009
637		Report of the Proceedings of the Privy Council concerning the Ratification of the Franco- Japanese Protocol on Guarantee and Political Understanding and of the Thai-Japanese Protocol on Guarantee and Political Under- standing dated 3 July 1941		7011

1 Thursday, 3 October, 1946
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6 INTERNATIONAL MILITARY TRIBUNAL
7 FOR THE FAR EAST
8 Court House of the Tribunal
9 War Ministry Building
10 Tokyo, Japan
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13 The Tribunal met, pursuant to adjournment,
14 at 0930.
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19 Appearances:
20 For the Tribunal, same as before.
21 For the Prosecution Section, same as before.
22 For the Defense Section, same as before.
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: Mr. Oneto.

4 (Whereupon, Mr. E. Williams
5 approached the lectern.)

6 THE PRESIDENT: Mr. Williams.

7 MR. E. WILLIAMS: Mr. President, may
8 I inquire as to whether the Tribunal would be prepared
9 to hear me discuss this matter of certification of
10 documents at this time?

11 THE PRESIDENT: Yes, on the understanding
12 that it affects more sections of the prosecution;
13 that it extends to other divisions of the prosecution --
14 more sections than the French section -- and that it
15 extends to other divisions of the prosecution, we will
16 hear you.

17 MR. E. WILLIAMS: Thank you.

18 I am directed by the Chief of Counsel to
19 make this statement because of the fact that I have had
20 particular charge of the matter of preparing documents
21 for presentation in Court. I understand that this
22 question arose upon the presentation of prosecution
23 document No. 1411 which has been conditionally received
24 as exhibit 618-A, and upon the presentation of prosecu-
25 tion document No. 985-A which has been conditionally

1 received as exhibit No. 620. Each of these documents
2 appears upon its face to be either a report or an
3 official record of an agency of the Japanese Imperial
4 Government.

5 The question presented is: Does a document
6 which appears on its face to be a record or an official
7 document of any nation require a certificate of authen-
8 ticity before it is presented and admitted in evidence?

9 THE PRESIDENT: No, it does not on its face
10 but somebody must tell us where he got it or where he
11 found it.

12 MR. E. WILLIAMS: The prosecution has
13 offered from time to time and will hereafter offer
14 two types of documents taken from the official records
15 of various governments.

16 THE PRESIDENT: An important factor would
17 be the receipt or the finding from or in enemy sources.
18 That ought to be disclosed by somebody.

19 MR. E. WILLIAMS: The first class of documents
20 which we have offered and intend to offer are those
21 which do not show on their face that they are official
22 records or documents of any government. In such cases
23 the prosecution has provided in the past and intends
24 to continue to provide under the direction of the
25 Court certificates which show the source and character

1 of such documents. The second class of documents are
2 those which appear on their face to be records of or
3 issued by officers, agencies or departments of the
4 Chinese and other governments. As to these latter
5 documents the procedure adopted by the prosecution
6 has been to offer the documents without certificates
7 attached. This procedure has been adopted because of
8 certain provisions of the Charter and of certain
9 rulings of this Tribunal. The provisions of the
10 Charter to which I refer are two: The first is
11 Article 13, Subdivision c, Subsection (1), which
12 provides that "a document, regardless of its security
13 classification and without proof of its issuance or
14 signature, which appears to the Tribunal to have been
15 signed or issued by any officer, department, agency
16 or member of the armed forces of any government" may
17 be admitted in evidence.

18 The second section is Article 13, Subdivision
19 d, --

20 THE PRESIDENT: The word is "appear," not
21 "purport."

22 MR. E. WILLIAMS: (Continuing) which pro-
23 vides that: "The Tribunal shall neither require proof
24 of facts of common knowledge, nor of the authenticity
25 of official government documents and reports of any

1 nation nor of the proceedings, records, and findings
2 of military or other agencies of any of the United
3 Nations."

4 On June 4, before the entire Tribunal, the
5 matter of the interpretation of these provisions was
6 considered and ruled upon by the Court. That ruling
7 which was announced by the President is as follows:
8 "The Tribunal also orders that the prosecution be at
9 liberty to produce in Court documents, obtained from
10 the Japanese Government offices, purporting to be
11 records and files from such offices, without further
12 authentication."

13 I continue the quote of the President's
14 language: "Section 13, d, of the Charter provides
15 that the Tribunal shall not require proof of the
16 authenticity of the official government documents and
17 the reports of any nation."

18 Continuing the President's language: "The
19 purpose of the prosecution is to obviate the needs for
20 hundreds of certificates of authenticity."

21 Continuing: "Each of the accused will have
22 the right to object to the admission of any document
23 on the ground that it is immaterial or irrelevant or
24 on any other substantial ground!"

25 I continue the President's language: "The

1 admission of these documents will be in all cases
2 subject to all just exceptions and objections."

3 This is the end of the language of the
4 Court which appears on page 379 of the record.

5 THE PRESIDENT: None of which touches the
6 point.

7 Certificates of (authenticity) and (certificates
8 or evidence by some person as to where these documents
9 were obtained) are two distinct things. We wanted to
10 avoid the need for having appended to every document
11 found in a Japanese department a certificate as to
12 its genuineness; but where there is an objection
13 which is preserved by those words of mine we do insist
14 that we be satisfied where the document was obtained.
15 Such proof is not offered here yet in the case of the
16 French documents and had there been no objection we
17 would have admitted the French documents.

18 MR. E. WILLIAMS: I may say that I am con-
19 strained most respectfully to differ with the Court
20 because the language of the Court on June 4 was very
21 clear and very unequivocal; and it was as follows:
22 "The Tribunal also orders that the prosecution be at
23 liberty to produce in Court documents obtained from the
24 Japanese Government offices purporting to be records
25 and files from such offices without further

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1 authentication." This view is confirmed by a later
2 statement of the President on August 9, 1946, when
3 Mr. Parkinson presented a document from the Japanese
4 Government which contained on its face a certificate.
5 The Court at that time stated that where certificates
6 had been obtained it would be necessary for the
7 prosecution to furnish copies to the Court and the
8 defense; but upon the ruling of June 4 which I have
9 quoted being called to the Court's attention, the
10 President stated as follows: "You are getting into
11 another field. We are not going back on any decision
12 we made, but we are talking about these cases in which
13 you have the certificates, have seen the need for them
14 but have not supplied the defense with copies."

15 I continue the quotation: "We are not
16 dealing with the case where you are excused from
17 getting the certificates but with cases where you
18 have obtained the certificates." This was at page
19 3602 of the record.

20 On one other occasion when a certificate
21 signed by Mr. Danly of the prosecution document
22 division was presented, the President remarked that
23 such certificate was valueless although it showed that
24 the document had been obtained from the Japanese
25 Government.

1 The rule stated by the Court on June 4
2 has never been rescinded and the reason assigned by
3 the Tribunal, namely, "to obviate the need for hun-
4 dreds of certificates," is at this time, in view of
5 our experience, more potent and important even than
6 it was at the time the Court made the statement. We
7 have felt justified in regarding this ruling by the
8 Court as constituting the law of the case and have
9 prepared many subsequent phases which have been put
10 through our processing department upon that basis.

11 As the Tribunal stated on June 4, the
12 processing of certificates entails an enormous amount
13 of work which, in our submission, is practically use-
14 less. For instance, in the phase of the case which
15 was just concluded, the relations between Japan,
16 Germany and Italy, one class of certificates only
17 which had to be provided entailed the processing,
18 making, and individual handling of twenty thousand
19 copies -- twenty thousand separate pieces of paper.

20 THE PRESIDENT: Have you finished quoting
21 me, Mr. Williams?

22 MR. E. WILLIAMS: I have finished quoting
23 you, your Honor. I am sorry that I have nothing more
24 I can quote.

25 THE PRESIDENT: I feel now that I can speak

1 with some assurance.

2 Nothing you said touches the real point
3 as to--

4 MR. E. WILLIAMS: Perhaps I shall get to
5 the real point.

6 THE PRESIDENT: I would like to deal with
7 it here because you may leave the lectern when you
8 have completed what you say now. What we really must
9 have in every case is evidence of the origin of these
10 documents. That would be given by certificate. You
11 would not care to call the person who found the docu-
12 ments, say, in the Japanese Government department.
13 We have never waived evidence of origin where there
14 was an objection. Evidence of authenticity, evidence
15 of signature and issuance, are different things from
16 evidence of origin.

17 MR. E. WILLIAMS: Your Honor anticipated
18 the matter which I have next on my notes. In each
19 case in which no certificate has been provided, the
20 document bears on its face language which shows the
21 department or agency of the government which issued
22 it or from which it came. In addition to that, the
23 fact that the prosecutors, as officers of this Court,
24 present the document in Court is an implicit repre-
25 sentation to the Court that the document is what it

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1 appears on its face to be. In the third place, any
2 defense counsel who has any question as to the auth-
3 enticity of any document has ample opportunity to
4 investigate.

5 We feel under the circumstances that there
6 is no valid reason why the Court should deviate from
7 the rules which it has already established, partic-
8 ularly in view of the fact that in reliance upon the
9 Court's own ruling the prosecution has already pre-
10 pared, without certificates, those documents which
11 appear on their face to emanate from the offices of
12 the various governments, not only in the phase of the
13 case which is now being presented but in other phases
14 of the case which are scheduled to follow immediately
15 after the presentation of this phase. We submit that
16 no possible injustice can be done the defendants by
17 following the rule laid down on June 4.

18 On the other hand, I may suggest to counsel
19 for the defense who have not yet had the experience
20 that we have had that when the defense starts to put
21 in documents, if they are met with the same necessity
22 for the processing of numerous unnecessary certificates,
23 they will find that their burden has been greatly en-
24 larged and increased. Under the circumstances, we
25 respectfully request that the Court not overrule its

1 previous ruling in this regard and permit us to pro-
2 ceed in accordance with that ruling, it being, of
3 course, understood that in the case of any document
4 which does not bear on its face the token of its
5 authenticity, a certificate will in the future, as
6 in the past, be provided.

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1 THE PRESIDENT: The rule of the 4th of June
2 will continue to be followed, as it is not in question.
3 The Court must require some evidence of the place where
4 the document was discovered, if objection is raised.
5 That evidence can be given in simple f rm. There is
6 nothing to prevent a single affidavit, whether joint
7 or otherwise, being filed, saying that prosecution
8 documents numbers so-and-so were found where they
9 were found.

10 MR. WILLIAMS: Does that mean, if the
11 President please, that it will not be necessary to
12 provide copies of those documents -- of such cer-
13 tificates, but that the original only may be filed
14 with the Tribunal?

15 THE PRESIDENT: Subject to what the defense
16 have to say, I see no objection to it.

17 MR. FURNESS: If the Court please, the
18 defense would like copies because when we get these
19 papers and prepare for the next day's work, we would
20 like to know where the documents which are going to
21 be presented came from.

22 THE PRESIDENT: There would be no difference
23 for your purposes between a(single) affidavit or a
24 single certificate indicating the source of each
25 document and a certificate attached to each document,

1 MR. FURNESS: If the Court please, the defense
2 has no objection whatsoever to a single certificate
3 listing documents coming from the same source. We do
4 not need them to be attached to each document.

5 THE PRESIDENT: That could be indicated in
6 the one document -- in the one certificate -- pages
7 1 to 6 showing sources from the Japanese Foreign
8 Office, et cetera, et cetera. At all events, we
9 cannot take the stand: the prosecution have presented
10 this, it must be right.

11 MR. FURNESS: But we would like copies of
12 that one document, that single certificate listing
13 the complete list of documents. That is all we want.

14 THE PRESIDENT: We must have proof of origin,
15 and what form is immaterial to us as long as the
16 defense is satisfied.

17 MR. FURNESS: But we would like copies of
18 that proof of origin, so that all defense counsel
19 can have them.

20 THE PRESIDENT: Well, Mr. Oneto, you must
21 give us proof of the origin of your documents by way
22 of certificate or oral evidence in the box, or affidavit.
23

24 Perhaps I failed to make clear that the
25 defense should be supplied with copies of whatever

1 proof or origin the prosecution offer, unless they
2 call oral evidence.

3 You may proceed with the rest of your case,
4 and you can rectify that matter later, Mr. Oneto.

5 MR. ONETO: Mr. President, I wish to indi-
6 cate that in accordance with the desire of the Court
7 I have asked for the required certificates, and I
8 shall receive certain of them soon; but I have not
9 yet received those for which I -- for which I pre-
10 sented two evidences yesterday.

11 THE MONITOR: Correction: "I have re-
12 ceived some already."

13 THE PRESIDENT: Mr. Tavenner, your sugges-
14 tion is approved.

15 Mr. Oneto, you may now ask Mr. Tavenner to
16 continue reading for you.

17 We find it most difficult to hear on the
18 IBM this morning.

19 MR. TAVENNER: I will begin reading at the
20 top of page 9.

21 (Reading):

22 "7. France's reply to our first draft of the
23 Exchange of Notes. (Conference between
24 Minister MATSUOKA and Ambassador HENRY on
25 August 15th).

1 "On August 15 Ambassador HNERY visited
2 Minister MATSUOKA, and after having read a document
3 corresponding to attached document No. 3 as a reply
4 to the said first draft of the exchange of notes ac-
5 cording to the instruction from the home government,
6 the following conference was held between the Ambas-
7 sador and the Minister.

8 "Minister: Didn't you say to me the other
9 day that France would, as a principle, accept Japan's
10 demands?

11 "Ambassador: I didn't say that all Japan's
12 demands would be accepted.

13 "Minister: I think I am sure you told me
14 the other day to the effect that although the French
15 Government is willing to accept the military demands
16 of Japan concerning French Indo-China as a general
17 principle, but such measures as would not injure
18 France's prestige be considered by Japan.

19 "Ambassador: That is a misunderstanding. I
20 meant to say that Japan's military demands would be
21 accepted within the limits that France would be able
22 to. Japan's military demands are concerned with the
23 passage of troops, usage of airfields and other pro-
24 vision of facilities, therefore to accept these de-
25 mands as they are would be equal to giving Japan a

1 blank cheque. France wishes to accept the Japanese
2 demands which are acceptable to France, after having
3 obtained security and a promise as to territorial
4 integrity.

5 "Minister: Concerning those points, I
6 said clearly the other day that Japan's military de-
7 mands are not based on the intention to invade the
8 territory of French Indo-China.

9 "Ambassador: Without obtaining the promise
10 of territorial guarantee and deciding upon, beforehand,
11 clearly what the contents of Japan's demands are, all
12 French Indo-China will be at the mercy of the Japanese
13 army once it enters, even though that may be only
14 the Tongking province.

15 "Minister: In our demands it is clearly
16 stated 'for the operations against China', and it
17 should be evident as to what points the Japanese army
18 will pass through. Therefore it is unnecessary to
19 worry that whole French Indo-China will be occupied
20 by the Japanese army.

21 "But if France doesn't believe my affirma-
22 tion, and continues to assume such an attitude as to
23 prolong /all decisions/, it is useless to consult
24 further, and as our military demands are so urgent,
25 it may happen that we may have to discontinue negotia-

1 tions and execute necessary military actions.)

2 "But convey to the home government that such
3 is not what the Japanese army as well as the Japanese
4 government desires.

5 "Ambassador: If we accept Japan's demands,
6 Chiang's army will also come into French Indo-China,
7 which will be turned into Sino-Japanese battle-field.
8 This would be a great nuisance.

9 "Minister: It is hard to understand why
10 you say such a thing now. When you accepted in principle
11 the passage of the Japanese army, you must have
12 supposed that there is a possibility of the Japanese
13 and Chinese armies clashing in French Indo-China.

14 "We are doing our best to overthrow the
15 Chiang regime, which is an obstacle in the establishment
16 of a permanent peace in the Far East, and as the
17 establishment of a lasting peace is (also) advantageous
18 to France, we ask your cooperation to overthrow the
19 Chiang regime, which is necessary for that purpose.

20 "In short, whether the contents of our present
21 demands are accepted by France or not, there is
22 still the necessity to carry out this urgently. But
23 as it is not agreeable for us to take military action
24 without agreement, I wish you to consider that I am
25 trying to achieve the objective by consulting with

1 you. From a general point of view, I want you to
2 persuade the home government to accept our demands
3 as they are soon as possible.

4 "Ambassador: (Understanding fully the
5 above, he took his leave).

6 " (In a chat the Minister said that originally
7 the security of French Indo-China territory had long
8 been preserved in fact by the Japanese-French Pact of
9 1907, and if Japan didn't comply with the conclusion
10 of this Pact, it is impossible to guess what would
11 have happened to the territory of French Indo-China,
12 but Japan complied with the conclusion of it, therefore
13 it is France's turn to respond to our demands.)

14 "8. France's first counter-plan to the First
15 Draft of our Exchange of Notes and the
16 Second Draft of our Exchange of Notes
17 (Conference between /Foreign/ Minister
18 MATSUOKA and Ambassador Henry on 20 Aug.)

19 "On the 20th August, the French Ambassador
20 in Tokyo called on /Foreign/ Minister MATSUOKA and
21 furnished to him, in accordance with instructions from
22 the home government, the attached document No. 4, and
23 draft of exchange of notes corresponding to attached
24 document No. 5 and which is based on the report of
25 the above-mentioned document. In regards to the above,

1 the Minister expressed his gratitude for the efforts
2 taken by the French Government and the Ambassador, and
3 at the same time stated that as to France's proposals
4 Japan would reply upon consideration of the document
5 and draft. But one thing I would like to mention **is**
6 that although economic problems are included in the
7 above /proposals/ we wish to resolve the military
8 problems prior to economic problems as the former are
9 of an urgent nature. However, it will be ~~allright~~ to
10 discuss the details of the military problems on the
11 spot. And as to the particular's of the form of the
12 agreement wish the vice-minister to negotiate with
13 your Excellency within today. Furthermore, when the
14 draft of the exchange of notes No. 1 and 2 of attached
15 document No. 6 in regards to the military question
16 problem and which was prepared by us was submitted,
17 the French Ambassador stated that the French proposal
18 did not injure their prestige and also was fair.
19 Furthermore, the Minister stressed the necessity to
20 separate the economic problems in order to save time
21 to solve the military problems. According to the
22 French proposal, in regards to the economic problems
23 only the recognition of Japan's predominant benefits
24 in the Far East, and also a predominant position
25 over the 3rd Powers in FIC is mentioned and is far

1 from our request of French homeland treatment. If
2 France persists in her proposals the negotiations
3 are bound to reach a deadlock again. In regards to
4 economic problems I think that you could reply that
5 negotiations on the spot be instructed in order to
6 respond as much as possible to the French homeland
7 treatment request. Anyway the necessity to decide in
8 advance on the military problem was advocated."

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1 "9. The third (draft of) the exchange of
2 notes. (Conversation on the night of August 20th
3 between Vice-Minister O HASHI and Ambassador HENRY).

4 "After immediate investigation of the French
5 counter-draft, Vice-Minister O HASHI asked Ambassador
6 'Henry' to visit him on the night of the 20th, and
7 the following conversation was held between the Vice-
8 Minister and the Ambassador with the chief of the
9 Western-Asia Bureau attending.

10 "Vice-Minister: In the French proposal
11 the Japanese French Pact is introduced, but the
12 situation has greatly changed compared with that
13 time when this Pact was concluded, therefore it is
14 only complicating the settlement of this matter, to
15 bring up such a Pact today.

16 "Ambassador: Concerning the above, because
17 /Foreign/ Minister MATSUOKA first mentioned it, we
18 drafted this proposal with that /Pact/ as the basis.

19 "Vice-Minister: The Minister only referred
20 to the Pact in the course of his discussion, because
21 he intended to show that it was evident Japan had
22 no territorial ambition towards French Indo-China
23 from the standpoint of the spirit the Pact was con-
24 cluded in the past. In the French proposal, all
25 military problems are left to the negotiations on

1 the spot, and the passage of troops and two other
2 items have not been given approval as a principle.
3 /We/ object to this point. Moreover, what is the
4 meaning of limiting the providing of facilities to
5 the border zone between French Indo-China and China?

6 "Ambassador: It is impossible to promise
7 vaguely the provision of facilities over such a
8 vast area like the Tongking Province, therefore,
9 we limited it to the border line which is not so
10 narrow. We cannot permit the stationing of garrisons
11 in the air-bases which the Japanese forces may use.

12 "Vice-Minister: Thus the provisions of
13 facilities according to the French will be meaning-
14 less. And so we wish to settle the problem accord-
15 ing to our plan, and to manage the economic problem
16 separately.

17 "Ambassador: As the French proposal was
18 made after considering the objections of the Japanese
19 (it is necessary to quote the Japanese-French Pact,
20 and also, the economic problem may be compromised
21 after some additional words are added to the French
22 proposal), if you still object to this, it suggests
23 that there are some oppositionists in the Japanese
24 Government who are against settling the French Indo-
25 China problem with the French Government and they are

1 trying to postpone the settlement purposely.

2 "Vice-Minister: That is a great mis-
3 understanding, on the contrary, we suspect that
4 the French are trying to delay the settlement.
5 After that we took into consideration the desires
6 of the French again. The Minister informed us
7 this morning, that this military demand was of a
8 temporary and exceptional character, all the expenses
9 of the military action shall be charged to the
10 Japanese /Government/ and concerning the details
11 of the military action and expenses, the Japanese
12 and French authorities on the spot shall consult
13 secretly. We believe that there will be no other
14 way to settle this matter than to add these above-
15 mentioned points. Therefore I hope you will kindly
16 convey the amended draft handed over French trans-
17 lation of letter received and sent, Nos. 1 and 2
18 of attached document No. 7, to the French Govern-
19 ment and endeavour to persuade the Government.
20 In case France should further postpone the settle-
21 ment /of the matter/ the responsibility will be
22 with the French should an unforeseen incident
23 occur in French Indo-China.
24 "Ambassador: Anyway, I will convey
25 your proposal to my home government.

1 "10. The concrete military requests which
2 were unofficially presented to the French- (The con-
3 ference between Ambassador Henry and Chief of Western
4 Eurasian Bureau, held in the evening of August 21).

5 "On the night of the 21st, the Chief of
6 the Eurasian Bureau visited the French Ambassador
7 in Tokyo and stated that although, actually, to
8 notify /you/ of our secret military items is not
9 preferable, and as we observed that the French
10 were very doubtful -- much more doubtful than
11 we expected -- as to our military demands, we con-
12 ferred with the armed forces authorities, and as
13 a result to speedily resolve the matter and dissolve
14 the French suspicion we have decided to unofficially
15 notify you the outline of the contents of our request.
16 Saying this, he handed the following /to the Ambassador/
17 and said, as we have done all we can regards this
18 matter we only hope that you will transmit our request
19 to your home government and obtain the approval of it
20 quickly without any alterations. Then, the Ambassador
21 promised that he would transmit the above to his home
22 government.

23 "(a) The number of air fields in Tongking
24 province which shall be utilized by the Japanese army
25 and navy forces.

1 "For the time being one place around the
2 districts of Hanoi, Phulang Thuong and Phutho respectively
3 shall be used as permanent air-fields. But according
4 to the situation other air-fields near the FIC-China
5 border may be utilized.

6 "(b) The approximate number of Japanese
7 forces to be stationed in TONKING province. The units
8 necessary for the guarding of the above-mentioned
9 air-fields, the air force unit to use these air-
10 fields and the supply units, (including guards
11 for transportation) engaged in transporting supplies
12 to the above-mentioned respective units and Japanese
13 units in Chinese territory adjacent to French Indo-
14 China, the total no. of Army and Naval units not
15 exceeding 5,000 - 6,000.

16 "(c) The route of passage for the Japanese
17 forces in the Tonking province. According to the
18 necessity of operations against China, the zone
19 along the Haiphong, Hanoi and Laokay line and
20 Hanoi and Langson line may be used for the passage
21 of Japanese troops. The strength (including that
22 of the units necessary for the transportation of
23 the above units and supplies to the same and guarding
24 of the transportation) of the units shall be other
25 than those mentioned in (b) but their number cannot

1 be stated at present.

2 "Note I: For the transportation of the
3 Japanese Army or supplies or for guarding the trans-
4 ports several ships of the Imperial Japanese Navy may
5 enter Haiphong.

6 "Note II. Communications equipment (mainly
7 wireless) for exclusive use /of the Japanese Army
8 and Navy/ shall naturally accompany the above.

9 "11. The 2nd French counter-proposal in
10 regards to the draft of the exchange of notes (Con-
11 ference between Vice-Minister OHASHI and Ambassador
12 HENRY on August 25th).

13 "On August 25th, Ambassador HENRY called
14 on Vice-Minister OHASHI and according to instructions
15 from his home government he presented the French
16 draft concerning the military, political and economic
17 matters as attached document No. 8 and asked our
18 approval. The Vice-Minister pointed out that the
19 acceptance of Japan's three military requests (1)
20 the air-fields in the Tongking Province to be used
21 by the Japanese Army, (2) the number of Japanese
22 troops to be stationed in the Tongking Province
23 /which are such units/ as the air-force units,
24 the maintenance corps and other units to use the
25 airfields and the supply units for Japanese troops

1 now in Chinese territory near the frontier, (3)
2 the course of passage for the units, had not been
3 clearly mentioned. Though the Vice-Minister/
4 insisted on specifically mentioning the above,
5 the Ambassador stated clearly that to specify
6 the above in an official letter is impossible from
7 the French prestige point of view, but actually this
8 is recognized at negotiations held on the spot,
9 and insisted on the agreement as it stands.

10 "The ambassador stated that he wished to
11 keep in absolute secrecy and not to announce the
12 agreements after the negotiations have succeeded
13 to which the Vice-Minister gave his consent. There-
14 fore, as a result of consulting with the military,
15 it was decided to accept it in order to settle this
16 matter quickly, and when in the night of the same day
17 the Chief of the Eurasian Bureau showed to the Am-
18 bassador our draft letter which is attached document
19 No. 9 vis-a-vis the French draft letter, the Am-
20 bassador had no objection, and to make sure to
21 make sure wired it back to the home government for
22 instructions."

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1 "12. August 30th. The exchange of official
2 notes and the oral application offered from Foreign
3 Minister MATSUOKA to Ambassador HENRI to supplement
4 the exchanged official notes.

5 "Based upon the results of the negotiation
6 between OHASHI and HENRI on the 25th, an exchange of
7 official notes such as Appendix No.10 (I) and (II)
8 was made on August 30th, at the Foreign Minister's
9 official residence between Foreign Minister MATSUOKA
10 and Ambassador HENRI: and the present Franco-Japanese
11 negotiation which saw much complications, came to a
12 conclusion two months after the opening of negotiations.

13 "Moreover, for the purpose of promoting
14 an immediate agreement concerning our military re-
15 quirements in French Indo-China, Foreign Minister
16 MATSUOKA made an oral statement to Ambassador Henri
17 at the time of the aforementioned official note ex-
18 change, as follows:

19 "1.) In your letter there is no clear
20 statement that France would accept our military re-
21 quirements; the outline of its tangible contents
22 was privately revealed to you by NISHI, the director
23 of the Europe-Asia Bureau. But it seems that you
24 have clearly stated on the 25th to Vice-Minister
25 OHASHI that although France cannot clearly specify

1 the aforementioned purport in writing from the stand-
2 point of dignity, actually she has the intention of
3 accepting all the aforementioned requirements. How-
4 ever, as far as the Imperial Government is concerned,
5 she will place confidence upon the abovementioned
6 statement of the French Government and will accept
7 your letter.

8 "2.) The Imperial Government feels that
9 our military requirements can be filled immediately
10 in French Indo-China. The Japanese troops in hasten-
11 ing to fulfill the requirements under pressure of
12 various situations and the High Command has decided
13 to designate Major-General NISHIHARA, who is the
14 chairman of the Inspection Committee observing the
15 situation of banning transportation of goods destined
16 for the Chiang-Kai-shek Government via French Indo-
17 China, to become the representative of the Supreme
18 Commander of the dispatched Army and Navy; combining
19 both posts. They issued instructions to the said
20 General to conclude a spot agreement at HANOI with
21 the Commander of French Army so that our aforemen-
22 tioned requirements can be filled as quickly as
23 possible, and, if circumstances allow, that this
24 task be accomplished within the fortnight. There-
25 fore, it is desired that the French Government inform

1 the Governor-General of French Indo-China that
2 France has substantially accepted the military re-
3 quirements of Japan revealed privately to you by
4 NISHI, the director of Europe-Asia Bureau, and
5 issue instructions to conclude the aforementioned
6 agreement immediately.

7 "13. The 1st negotiation for agreement
8 on the spot.

9 "On August 31 Major-Gen. NISHIHARA called
10 on the Governor General of French Indo-China and
11 proposed to commence military negotiations accord-
12 ing to the aforesaid MATSUOKA-HENRY Agreement, to
13 which the Governor General did not respond, saying
14 that he had not received any instructions from the
15 home government. Thereupon, NISHIHARA decided to
16 evacuate all the observation personnel and Japanese
17 residents if the French /authoritics/failed to agree
18 to our requests by the evening of Sept. 2nd, and in
19 regards to the above asked the understanding of our
20 Consulate-General. At noon on the following day,
21 the 31st, the Maj.-General called on the Governor
22 General again, but found no way to commence negotia-
23 tions. As there were various conditions, strategi-
24 cally and diplomatically, which necessitate immediate
25 opening of negotiations, this ministry /the Foreign

1 Minister/ wired to Ambassador SAWADA in France to
2 urge the French Government to give instructions to
3 the Governor General of French Indo-China to com-
4 mence immediately the negotiations on the spot.
5 (Telegram received from Hanoi 2nd Sept. 15 Showa
6 /1940/No. 190 and Telegram sent to France 2nd Sept.
7 15 Showa /1940/ No.401). In the night of Sept. 2nd,
8 Major Gen. NISHIHARA again called on the Governor
9 General, who stated that although he received in-
10 structions from the home government that evening,
11 the message was rather long and had many points
12 which were incomprehensible, so desired the negotia-
13 tion to be postponed until the morning of the 3rd.
14 Although the Maj. General demanded the immediate
15 commencement of negotiations, the Governor General
16 declined to accept it. Therefore the Maj. General
17 handed the notification previously prepared as to the
18 withdrawal of Japanese residents and the stationing
19 of troops after Sept. 5th /to the Governor General/.
20 Thereupon the Governor General stated that some reply
21 shall be given in one hour's time, so the Maj.-
22 General temporarily withdrew his notification. But
23 at 10:30 P.M. a note from the Governor General was
24 sent in which it was stated that the contents of
25 the instructions from the home government as to the

1 proposal for an agreement on the spot differed to
2 quite an extent with that of ours, and advocated a
3 revision and desired to commence from the 3rd.
4 Major General NISHIHARA, judging that if the nego-
5 tiation were commenced under such conditions, no
6 conclusion could be attained in a short period,
7 immediately proposed to the Governor General that
8 the Commander-in-Chief of Japanese Expeditionary
9 Force in South China has decided to advance his
10 Army into French India after Sept. 5th. At the
11 same time he also notified the Consulate-General of
12 the above circumstances, consequently Consul-General
13 SUZUKI immediately took steps on the 4th to retain
14 the Bangkok Maru and the Saigon Maru which were at
15 that time in Haiphong and Bangkok respectively and
16 prepared for evacuation on 4th. (Tel. rec. from
17 Hanoi 3rd Sept. No. 197, 198. Tel. sent to Hanoi
18 3rd Sept. No. 209). As the endeavors of both govern-
19 ments have come to naught, again at Tokyo, Ambassa-
20 dor Sawada was instructed to persuade the French
21 home government to give instructions to the Governor
22 General to accept our demands (Tel. sent to France 3rd
23 Sept. 15 Showa /1940/ No. 405; Tel. Rec. from France
24 4 Sept. No. 715, 717) at the same time, when the
25 French Ambassador in Tokyo came to see Vice-Minister

1 OHASHI, he also requested that instructions be
2 given to the Governor General of French Indo-China
3 for the conclusions of agreements on the spot by the
4 home government. This the Ambassador accepted.
5 (Tel. sent to France 3rd Sept. No. 406).

6 "On the other hand, Major Gen. NISHIHARA
7 met with the Commanding General of the French Indo-
8 China Army at 10 A.M. on the 3rd, at which time the
9 Commander said that as he had wired to the Vichy
10 Government yesterday evening that the negotiations
11 had ended in failure, he has now no authority to ne-
12 gotiate, and that as a counter-proposal is being
13 drafted, meeting with the Governor General is desired.
14 Waiting for the said counter-proposal it was sent in
15 the evening of the same day. Therefore Major Gen.
16 NISHIHARA again requested to meet the Commanding
17 General, to which he replied that he wished to post-
18 pone the negotiations until 9 A.M. of the 4th, be-
19 cause he was tired. (Tel. Rec. from Hanoi 4th Sept.
20 No. 199). At 8 P.M. on the 4th an Agreement on the
21 spot (Attached document No. 11) was signed between
22 Major General NISHIHARA and Martan, the Commanding
23 General. (Tel. Rec. from Hanoi 4th Sept. No. 200,
24 5th Sept. No. 201, Tel. sent to France 7th Sept. No. 411).
25

1 THE PRESIDENT: We will recess now for fif-
2 teen minutes.

3 (Whereupon, at 1045, a recess was
4 taken until 1100, after which the proceedings
5 were resumed as follows:)

M 6
o 7 MARSHAL OF THE COURT: The Tribunal is now
s 8 resumed.

& 9 THE PRESIDENT: Mr. Oneto.

A 10 MR. TAVENNER: I will begin reading at the
b 11 middle of page 16:

r 12 "The Second negotiation for agreement of
a 13 details on the spot.

m 14 "Concerning the military pact which was signed
15 on 4 September, agreement of details was expected to
16 be concluded within the 6th, but a unit of the Japan-
17 ese Army crossed the border at Liang-shan district in
18 South China on the morning of the 6th, and on the fol-
19 lowing day, the Governor General proposed to Maj.
20 General NISHIHARA to drop the negotiation on the pre-
21 text that the above incident was a contravention of the
22 pact. In regards to the aforesaid, Major General
23 NISHIHARA explained in length that it was an arbit-
24 rary decision taken by a front line unit which did
25 not know of the conclusion of the military agreement

1 and was by no means the intention of the Japanese
2 military authorities. However, the Governor General
3 would not change his attitude at all, and it seemed
4 as if he were postponing the negotiations purposely.
5 (Telegram from Hanoi: 8th Sept. No. 205, 9th Sept.
6 No. 206. Telegram to Geneva 8 Sept. No. 84)

7 "Therefore, the Japanese Government sent
8 instructions to Ambassador SAWADA in France to pro-
9 pose to the French Government that in case the
10 settlement of this problem should be postponed any
11 longer, some unforeseen incident may happen, so the
12 French Government should give instructions to the
13 Governor General of French Indo-China to settle the
14 negotiation with Japan immediately. (Telegram to
15 France, 10th Sept. No. 417. Telegram from France,
16 12th Sept. No. 736).

17 "After that, on 11th, the French Ambassa-
18 dor in Tokyo visited Vice-Minister OHASHI, and said
19 that he had received information that the Thailand
20 Army was also likely to invade French Indo-China,
21 coordinating with the advance of the Japanese Army.
22 Then the matter would be a hopeless case so he pro-
23 posed that Japan stop Thailand's plan. On the 12th,
24 the Vice Minister asked the French Ambassador to
25 visit him, and told him this issue was one between

1 France and Thailand and Japan had nothing to do with
2 it, moreover, that the French proposal was nothing but
3 her policy to postpone the negotiations. ISHIZAWA,
4 the Chief of the Third Section of European Affairs,
5 too, proposed to the French Embassy Secretary Dang-
6 eran /spelling approved by French Division/ to the
7 same effect. (Telegram No. 2018 to Hanoi and Bang-
8 kok on Sep. 11; Telegram No. 194 to Bangkok on Sep.
9 12. Gist of the talk between Vice-Minister and
10 French Ambassador on Sep. 11, Gists of the tele-
11 phonic conversations between Chief of the Third
12 Section of European Affairs and the French Secretary
13 on Sep. 12, Gist of the talk between Vice-Minister
14 and French Ambassador on Sep. 12).

"On 13th, Maj. Gen. NISHIHARA had an inter-
view with the Governor-General, who told him that
in accordance with the instructions from the French
Government to continue the negotiations, the Head-
quarters of the French Indo-Chinese Army was earn-
estly studying the details. The negotiations, never-
theless, have shown no progress since that time.
(Telegram from Hanoi, Sep. 14, No. 212). In TOKYO,
the French Ambassador called on Vice-Minister on
the 16th and said again that the Japanese were re-
sponsible for the delay of the negotiations and that

1 Thailand's movements were backed by Japan. The Vice-
2 Minister contradicted and told him the actual sit-
3 uation on the spot is very serious, and as our army
4 may commence advancement /into FIC/ at any moment
5 without waiting for an agreement of the details,
6 therefore wish the French Government to instruct
7 the French Indo-China authorities to conclude the
8 agreement of the details. (Telegram to France and
9 Hanoi on Sep. 16, No. 2057).

10 "On the 17th, the Governor-General and
11 the Commanding-General of the Army gave us their
12 general consent to our request. But even after the
13 conclusion of an agreement and the Japanese Army
14 makes a peaceful occupation some clashes with the
15 French Indo-China forces are unavoidable so, for the
16 time being, it has been decided to evacuate all
17 Japanese residents on the 20th."

18 I will not read the list of telegrams.

19 "The next day, the 18th, Commander of the
20 French Indo-China Army replied, but, there existed
21 a wide difference of opinion between the two. As
22 it was deemed useless to continue the negotiations,
23 Maj. Gen. NISHIHARA notified the French authorities
24 that all the members of the Japanese Observation
25 Party would leave Hanoi on the 20th. In TOKYO, too,

1 the Vice-Minister informed the French Ambassador on
2 the 19th that the Japanese forces would advance into
3 TONKING Province at any time after zero hour of Sep.
4 23rd, whether the agreement on details will be con-
5 cluded or not.

6 "On the same day, several negotiations
7 were held on the spot but without any results. The
8 Japanese residents in the Hanoi area and most of the
9 members of the Observation Party arrived at Hai-
10 phong and embarked on the HAKKAI-MARU and the
11 SURABAYA-MARU, and those in the Saigon area embark-
12 ed on the ARIZONA-MARU. As soon as the ships start-
13 ed for HAUKOW at noon of the 22nd, the Japanese
14 troops in CHENNANKWANG area began to advance. At
15 14.30 hours of the same day, they /the French auth-
16 orities/ suddenly adopted a compromising attitude
17 and, at last, the agreement on details, as per
18 attached document No. 12, was signed.

19 "On the 24th final agreement was reached
20 in regards to the military agreement between Major-
21 General NISHIHARA and the representative of the
22 Commander of the French Indo-China Army on board
23 the battleship KAWACHI. It was decided that the
24 main part of the expeditionary force will enter
25 Haiphong harbour on the 25th and land on the 26th.

(Telegram sent by Consul-General SUZUKI through
Navy on 24 Sept.).

"1. 'Particulars concerning the evacuation of Japanese residents.'

"Consul-General SUZUKI in HANOI, who has been preparing the evacuation of the Japanese residents in view of the strained condition of negotiations between Japan and French Indo-China, issued private evacuation orders on the 18th to all Japanese residents. At the same time, he has reached an agreement with the Governor-General of French Indo-China as to the method of protecting the lives and properties of Japanese residents in the course of evacuation. Residents under the jurisdiction of the Consulate-General at HANOI reached HAIPHONG at 7 A.M. on the 20th by special train, and at noon boarded the HACHIKAI-MARU (chiefly old people, children and women) and the SURABAYA-MARU (chiefly men in the prime of life) and awaited development. Also, the Japanese residents under jurisdiction of the Consulate-General at SAIGON boarded the ARIZONA-MARU on the same day at SAIGON.

23 "Various meetings were held concerning the
24 execution of the evacuation HAKIKAI-MARU and the
25 SURABAYA-MARU departed at 10 A.M. on the 22nd for

HAIKOW, On the 20th, the ARIZONA-MARU left SAIGON.

1 "All the members of the Consulate-General
2 at HANOI and the Japanese residents totaling approx-
3 imately 300 persons arrived at Haikow at noon on the
4 23rd aboard the HACHIKAI MARU and the SURABAYA-MARU."

5 THE PRESIDENT: Need you read all this?

6 MR. TAVENNER: I will omit the reading of
7 that paragraph. "On the other hand, Consul-General
8 SUZUKI and his party arrived at HAIPHONG. . ." I
9 will omit the reading of that paragraph and will be-
10 gin reading on page 30.
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1 "(Attached Document No. 10-2)"

2 "(Copy of letter to be sent by the
3 Foreign Minister)"

4 "Europe 3. Secret No. 38.

5 "30 August 15 Showa /1940/

6 "Mr. Ambassador.

7 "I have the honour to acknowledge the
8 following letter from your Excellency, dated 30
9 August 15 Showa /1940/.

10 "I have the honour of notifying your
11 Excellency that the Government of France recognize
12 the predominant interests of Japan in the economic
13 and political fields in the Far East.

14 "Therefore, the Government of France
15 anticipates the Government of Japan will give their
16 assurance/s/ to the Government of France, that
17 Japan is with the intention of respecting the rights
18 and interests of France in the Far East, especially
19 the territorial integrity of Indo-China and the
20 sovereignty of France in all parts of the Union
of Indo-China.

21 "In regards to the economic field, France
22 is prepared to negotiate speedily as to the promotion
23 of trade between Indo-China and Japan, as well as
24 the method of assuring the most advantageous

25 .

1 position possible, and superior compared to that
2 of the Third Power, to Japan and its nationals.

3 "As to the provision of special military
4 facilities which Japan has requested of France, the
5 same understands the purport of the Imperial
6 Government to be completely in the settlement of
7 the conflict between Generalissimo Chiang Kai-shek,
8 consequently the aforesaid is temporary, ceasing
9 in the event such a conflict is resolved and shall
10 be applied to only that province of Indo-China
11 adjacent to China. Under the above-mentioned
12 condition the Government of France are prepared to
13 order the commander of the French Army in Indo-China
14 to settle the said military problems with the
15 Japanese commander. The demands submitted by the
16 Imperial Japanese Government shall not be excluded
17 a priori, and orders issued to the French military
18 authorities shall not, in regards to the above
19 points, restrict the competence of the above
20 authorities.

21 "The negotiations shall be carried out
22 under the following conditions:

23 "Both military commanders shall, upon
24 their word of honour as soldiers, exchange inform-
25 ation which would clarify the necessities of the

1 Japanese army and the method by which the same may be
2 satisfied. The above-mentioned desires of the Japanese
3 army shall be limited to military operations in
4 those provinces in China adjacent to Indo-China.

5 "Following the exchange of information,
6 mutually reliable contacts shall be made between the
7 French and Japanese military authorities to provide
8 the necessary military facilities to the Japanese
9 Army. The Government of France shall not take any
10 financial responsibilities concerning the various
11 facilities provided to the Japanese Army. These facilities
12 provided shall not be of a military occupation-
13 al nature, but strictly limited to strategic neces-
14 sities and conducted under the superintendence and
15 intermediation of the French military authorities.

16 "Lastly, the Imperial Japanese Government
17 shall promise to take the responsibility of compensa-
18 ting for damages sustained by Indo-China through the
19 act of war of that enemy which may be drawn into the
20 territory of Indo-China because of the presence of,
21 and also by the act of war of the Japanese Army itself.

22 "In reply to your letter cited above, I have
23 the honour of notifying your Excellency that the
24 Government of Japan are with the intention of respect-
25 ing the rights and interests of France in the Far East,

1 especially the territorial integrity and sovereignty
2 of France in all parts of the Union of Indo-China;
3 accept those proposals made by the Government of France;
4 and desire that negotiations, with the objective of
5 satisfying Japan's demands, be commenced without delay
6 and anticipate the speedy achievement of the objective
7 as well as the Government of France to issue, here-
8 after necessary instructions to the Indo-China authori- -
9 ties for this purpose.

10 "I have the honour be, with the highest con-
11 sideration,

12 "Your Excellency's obedient Servant,

13 "Yosuke MATSUOKA
14 Foreign Minister.

15 "His Excellency
16 Charles Arsene HENRY
French Ambassador Extraordinary and
Plenipotentiary.

17 "The Circumstances surrounding the conclusion
18 of agreement between Japan and France."

19 THE PRESIDENT: Omit those numbers. They
20 won't help us.

21 MR. TAVENNER: It is on the following page.

22 THE PRESIDENT: The date is important.

23 MR. TAVENNER: Page 33. Heading is "The
24 Circumstances surrounding the conclusion of agreement
25 between Japan and France."

1 THE PRESIDENT: 13/9/46.

2 MR. TAVENNAC: Yes sir. "Attached Document
3 No. 11.

4 "Basic data for the purpose of concluding
5 the military agreement between the representatives
6 of the commander-in-chief of Japanese Army and Naval
7 Forces despatched to South China and the commander-
8 in-chief of the French Indo-China Army.

9 "These basic data originate from the in-
10 struction issued by the French Government and was
11 communicated to the representative of Japanese mili-
12 tary and Naval forces on September 3, 1940."

13 I will omit down to Item 2, near the bottom
14 of that page.

15 "(2) Basic Data

16 "No Japanese troops whatever arms they may
17 belong to are permitted to enter 'HANOI' without
18 the special authorization of the French Commander-in-
19 Chief. Movements of Japanese troops are limited to
20 the north side of River Rouje.

21 "In strategic zones both French administra-
22 tive and military organs will remain in their place
23 and retain their old authorities. Whenever there arises
24 the necessity of Japanese Army coming into contact
25 with the natives, it will be done through the inter-

1 mediary of the former.

2 "The numerical strength of the Japanese
3 ground forces existing in the district of Tonking in-
4 cluding both its combatant and non-combatant personnel
5 must not exceed more than two third viz - 25,000 of
6 the mobilized forces in the district of Tonking.

7 "The Japanese Army promises the following
8 items:

9 "1. It will bear all expenses arising from
10 transportations of men and material, billeting and any
11 other establishment.

12 "2. It will compensate both the Indo-China
13 government or any private individuals with regard to
14 the damages accruing from the presence of the Japanese
15 Army establishment or through the belligerent actions
16 of both Chinese and Japanese forces in the Indo-Chinese
17 territory.

18 "(3) Strategic Base

19 "The Japanese Army will select one or more
20 bases for strategical purposes in the aforementioned
21 strategical zone.

22 "The positions of strategical bases are as
23 follows:

24 "The district of North and North East of the
25 line (including the native settlement) connecting HANOI

1 DAICHIYUJENU, KAN, TAIHU, KUIENU and KEPU.

2 "The Japanese military authorities have com-
 3 plete freedom for the purpose of selecting one or sev-
 4 eral strategical bases which are to be chosen under the
 5 following conditions; that is, the French authorities
 6 will superintend the bases, strictly restrict the
 7 losses to be sustained by individuals and make requests
 8 for compensation for losses immediately.

9 "The selected landing point is to be 'HAI-
 10 PHONG'. This port cannot be made a strategical base.
 11 The landing point is to be one, and is to be released
 12 in as short a period as possible after landing of
 13 troops and military supplies.

14 "(4) Lines of Communication

15 "The Japanese authorities may use the fol-
 16 lowing lines for military operations:

17 "Railroads

HAI-PHONG	---	GIA-TAM
GIA-LAM	---	LANG-SON
GIA-LAM	---	LACKAY

18 "Roads

HAI-PHONG	---	GIA-LAM
GIA-LAM	---	LANG-SON
GIA-LAM	---	XEN-BAY

19 "According to circumstances the following
 20 line can be made available, after obtaining the special
 21 consent of the French military supreme commander."

THE PRESIDENT: Mr. Blewett.

1 MR. BLEWETT: With the permission of the
2 Court, the defense would like to ask the prosecution
3 the meaning on page 33 it refers to pages 109-111,
4 13/9/46, which does not appear on the original.
5

6 MR. TAVERNER: Counsel has stated that the
7 reference that he made appears -- does not appear on
8 the Japanese translation. I have no way of knowing
9 that or explaining it.
10

11 THE PRESIDENT: It is too recent to be part
12 of the document unless the document is a recent docu-
13 ment, and it isn't.
14

15 MR. TAVERNER: I think I have the explanation
16 of it. I notice immediately under those figures in
17 parenthesis the language "translated by the army." I
18 imagine that the two matters belong together and
19 refers to the date of the translation.
20

21 THE PRESIDENT: So we thought.
22

23 MR. TAVERNER: (Reading)

24 "GIA-LAM -- THAI-NGUEN -- CAO-BIANG --
25 TUYEN-QUANG -- HA-GIANG Road

"However, the abovementioned roads are to be
used only according to the requirements of military
operations and only during the period necessary for
the operation of transport troops.
26

"The method of carrying out this transportation

1 is to be regulated by the agreement between the Japanese
2 and French army authorities.

3 "It is only the French military supreme commander who is qualified to determine the abovementioned course and to grant permission for the sake of reaching one or several strategical bases. The guarding of the communication roads shall be undertaken by French or Japanese troops according to the districts decided.

9 "On principle the guarding of the part from
10 'HAI-PHONG' to the selected strategical bases is to be
11 undertaken by the French troops.

12 "(5) Air Force

13 "The three air-fields situated to the north
14 of the 'ROUGE' River /that is, 'PHU-THO', 'VINC-YEN',
15 and 'LAOKAY' / can be used and equipped by the Japanese
16 air force.

17 "The military personnel applied for the
18 guarding of these air-fields is to be reduced to the
19 strictest possible minimum and the number of such personnel is to be decided by mutual agreement between
20 the Japanese and French military authorities.

22 "The French authorities are to decide the
23 areas where aviation is forbidden as well as aviation
24 regulations in the territorial sky.

25 "The French military authorities are to be

1 informed of the movement of airplanes without the dis-
2 trict of military operations 24 hours in advance.

3 "(S) War ships and Transportation

4 "The landing of the personnel and supplies
5 of the Japanese military forces must be carried out
6 only by transports. The warships convoying these trans-
7 ports must not enter within six nautical miles off
8 the line connecting DOSOM and APPONNU. However, one
9 Japanese warship not bigger than a torpedo-boat may
10 enter the port of HAI-PHONG and stay there on the afores-
11 mentioned conditions.

12 "The French authorities must be informed of
13 the arrival of all groups of Japanese transports and
14 also of the number of soldiers to be landed at least
15 24 hours in advance.

16 "The number of ships to be moored alongside
17 the wharf will be limited by mutual agreement with the
18 Japanese authorities. The number of the port estab-
19 lishments will likewise be limited and it is a matter
20 of course that the use of these establishments will
21 not be permanent.

22 "The anchoring positions of the Japanese
23 transport ships will be decided by mutual consent.

24 "The refuelling of ships along the coast of
25 Indo-China must be strictly limited and carried on

1 only in those anchorage harbors determined by mutual
2 consent of both parties."

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1 "(7) Wireless telegrams

2 "Powerful fixed wireless installations,
3 excepting for field wireless apparatus shall not
4 be established in Indo-Chinese territory. This
5 does not apply to ship wireless. The question of
6 laying a submarine cable between the coast of
7 TONGKING and HAINAN will be studied separately.

8 "(8) Important matters that demand spe-
9 cial attention.

10 "Unless the final agreement is signed
11 by both parties and unless the date of the coming
12 into effect of this agreement is determined, the
13 Japanese military, naval, and aerial forces cannot
14 enter the territory or the territorial airs of Indo-
15 China. In accordance with the consent given by
16 the representatives of the Japanese Army and Navy
17 no action whatsoever of any threatening nature may
18 be resorted to.

19 "The following will be considered as
20 threatening actions:

21 "Any attempt to cross the border.

22 "Any gathering of troops near Indo-Chinese
23 territory.

24 "(Note) This implies that more forces
25 than at present shall not be gathered for the pur-

pose of the invasion of French Indo-China.

"Actions of warships or transport ships
in the offing.

"Flying in the territorial airs. This
does not apply, however, to cases where special
permission has been obtained.

"Unless the above mentioned conditions
are observed by the Japanese forces, the French
supreme commander shall suspend the negotiations
already commenced and resort to freedom of action.

"It goes without saying that the various
basic items decided in these precautions must be
kept in utmost secrecy until the time of signing
of the final agreement.

"Any breach of this secrecy by the Japanese
authorities will be considered as a threatening
measure by the French authorities and is liable
to bring about the various above-mentioned results.

"Sept. 4 15th year of SHOWA at HANOI

"(Signed) The representative of the
supreme commander of the Japanese Army and Navy
dispatched to South-China.

"Major-General NISHIHARA,

"The supreme commander of the French
Indo-China forces. General MARTIN."

1 "Attached Document No. 12.

2 "Agreement Concluded between the Com-
3 mander of the Indo-Chinese Army and the delegates
4 of the Japanese Army and Navy in Indo-China.

5 "The following are dealt with in this
6 Agreement.

7 "(1) Use of several air-bases in TONG-
8 KING Province.

9 "(2) Stationing of a certain number
10 of Japanese military forces.

11 "(3) Passing of Japanese troops through
12 TONGKING Province in necessary cases.

13 "(4) Entry of Japanese advance guards
14 into French Indo-China.

15 "(1) Use of several air-bases.

16 "Japanese air forces can use the follow-
17 ing air-bases:-

18 GIA-LAM, LAO-KAY, or PHU-LANG-CHUONG,
19 PHU-TO.

20 "Japanese air forces can equip the said
21 air-bases in conformity with the terms set forth
22 in the agreement of September 4.

23 "The number of military personnel for
24 the guarding of the said air-bases shall be fixed
25 by the mutual agreement of both Japanese and French

authorities, and shall be limited to the irreducible minimum necessary to carry out their duty.

"(2) Stationing of a certain number of Japanese military forces.

"The strength of the various Japanese troops whose duties are given as follows shall be fixed by the mutual agreement of both Japanese and French military authorities.

"(a) Guarding of the air-bases referred to in item (1).

"(b) Use of the said air-bases (fliers and ground forces belonging to the Japanese air corps).

"(c) Transportation and guarding of supplies for the following Japanese troops.

"The troops at the air-bases specified under Paragraph 1 and those now in operations in Chinese territory near the border-line between China and Indo-China.

"(d) Transportation through HAIPHONG Harbor and management of hospitals to be established in that district.

"The said personnel strength shall be limited to the minimum degree necessary to accomplish the above duties and shall under no cir-

1 cumstances exceed 6,000.

2 "The stationing areas of the said per-
3 sonnel shall be decided with the joint consent of
4 the Japanese and French military authorities.

5 "A part of the said force limited to the
6 irreducible minimum, as fixed by the agreement of
7 both Japanese and French staff-offices, may utilize
8 villages directly adjoining the air-bases.

9 "This, however, is not applicable to
10 HANOI. Neither the Japanese military headquarters
11 nor any troops shall station at or pass through
12 HANOI. This is not applicable, however, to the
13 liaison officers between both staff-offices.

14 "Equipments for the Japanese air corps
15 and their guards at the various air-bases shall
16 be installed by the Japanese military authorities.

17 "HAIPHONG shall be used as a landing
18 spot under the terms which shall be settled by
19 the joint consent of both Japanese and French
20 staff-offices.

21 "In any case, the warships shall not
22 be permitted to approach within 6 nautical miles
23 from the line which connects DOSON and ABOWAN.

24 "One warship not exceeding the class
25 of torpedo boat, shall be permitted to anchor

1 in HAIPHONG Harbor.

2 "(3) The passage of the Japanese forces
3 through TONG-KING State.

4 "In case the commander of the Japanese
5 forces wishes to conduct the attacking operation
6 with his ground forces, starting from the northern
7 boundary of TONG-KING State (the said commander
8 is not considering this at present), or conduct
9 replacement movement of the forces necessitating
10 embarkation from HAIPHONG Port, the several traffic
11 roads, decided by the commander of the French
12 Forces, shall be utilized by the Japanese forces
13 according to the operational needs.

14 "The methods of executing the afore-
15 mentioned transportation shall be prescribed ac-
16 cording to the clauses provided in the 'Fundamental
17 Matters of Agreement', signed on September 4, 1940.

18 "The strength of the passing Japanese
19 troops will be decided upon later according to
20 the degree of necessity. However, the total
21 strength of the passing troops and the troops de-
22 scribed in the second clause will not exceed the
23 number established by the 'Fundamental Matters of
24 Agreement', signed on September 4, 1940.

25 "The entrance of the Japanese vanguard

1 unit (into the country).

2 "In view of the fact that 2200 hours on
3 22nd September is due to be observed strictly by
4 the Japanese authorities, the first shipload of
5 troops shall be authorized to enter HAIPHONG
6 Harbor on the fixed time mentioned above.

7 "However, unless special agreements as
8 to the debarkation clauses of the landing troops
9 and clauses concerning movement to the station
10 points are concluded, the troops shall be detained
11 within the ship and other transport vessels
12 shall not enter the harbor.

13 "(5) The transportation of the Japanese
14 forces passing through TONG-KING State.

15 "The Japanese forces now stationed in
16 the vicinity of the border between China and
17 Indo-China are permitted to be transported
18 through the territory of French Indo-China for
19 the purpose of embarkation at HAIPHONG Port, in
20 accordance with the request of the Japanese au-
21 thorities.

22 "Since the transportation of these forces
23 necessitates detailed studies, a special agree-
24 ment is necessary between both General Staff
25 Offices.

1 "And unless this agreement is concluded,
2 no Japanese corps forces will cross the French
3 Indo-China border.

4 "General matters.

5 "Except for the various matters pre-
6 scribed in this agreement, it is only natural
7 that all of the 'Fundamental Matters of Agreement'
8 signed on September 4, 1940, be effective.

9 "Henceforth, in order to decide the
10 methods of executing this agreement, the two
11 General Staff-Offices will constantly keep in touch
12 with each other.

13 "September 22, 1940, in HANOI.

14 "Second Lieutenant NISHIHARA, Major-
15 General, General Officer MARTAN."

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1 MR. ONETO: Mr. President, I offer in evi-
2 dence prosecution document No. 4025-E .

3 THE PRESIDENT: I could not hear a word in
4 French or English.

5 MR. ONETO: I offer in evidence prosecution
6 document No. 4025-E. This is a telegram from the
7 German Ambassador in Tokyo to the State Secretary,
8 bearing date of 2 August 1940. It relates to a Japanese
9 request to the French Government for passage of Japan-
10 ese troops through North Indo-China and the establish-
11 ment of two airfields in that country.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Prosecution's document
14 No. 4025-E(1) will be given exhibit No. 622.

15 (Whereupon, the document above
16 referred to was marked prosecution's exhibit
17 No. 622, and was received in evidence.)

18 MR. TAVENNER: I will read exhibit 622.

19 "Telegram (Secret Cipher Process). To be kept
20 in locked file. Tokyo, 2 August 1940. Arrival,
21 3 August 1940. Urgent!!

22 "To the State Secretary.

23 "Foreign Minister MATSUOKA yesterday invited me
24 to the first political conversation, informing me that
25 upon a talk with the departmental minister, the first

1 three Embassy requests out of its continuously collected
2 material, which I had transmitted to him through a con-
3 fidant, would be complied with."

4 I omit the reading of the rest of that page
5 and will begin at the middle of page 2.

6 "The Foreign Minister told me at the end of
7 the conversation that he had just received the French
8 Ambassador, asking him to obtain the consent of the
9 French Government for the passage of Japanese troops
10 through North Indo-China and the establishment of two
11 airfields since an attack on the Yunnan railway and
12 Kunming was possible in no other way. He had assured
13 the French Ambassador that Japan has no territorial
14 ambitions in Indo-China and would later evacuate the
15 area again. The Foreign Minister hoped that the French
16 government would see the point of these demands so as
17 not to put the Japanese army before the necessity of
18 enforcing the passage by violence. The French
19 Ambassador had promised to pass this on, pointing out
20 that France could not decide for herself after the
21 armistice negotiations, and that the matter will have
22 to be referred to the Armistice Commission for a
23 decision.

25 "The Foreign Minister said he would be grate-
ful if the German Government would not object to the

1 Japanese wish and would likewise influence the French
2 Government in this sense. I promised to transmit this
3 without committing myself. Ott."

4 MR. ONETO: The Tribunal's attention is called
5 to prosecution document 4029-E, in evidence as exhib-
6 it 547, in which Foreign Minister MATSUOKA on 15 Aug-
7 ust 1940 requested the German Government to support
8 Japanese demands on Indo-China by influencing the French
9 Government.

10 I present for introduction in evidence prose-
11 cution document No. 219-R. It is a memorandum by the
12 Under Secretary of State of the United States of
13 America, bearing the date 20 September 1940. It relates
14 to an ultimatum by General NISHIHARA to the French
15 Governor General of French Indo-China. It appears in
16 Volume I of "Papers Relating to Foreign Relations
17 of the United States of America," Japan: 1931 - 1941,
18 pages 877 to 881, which is in evidence as exhibit 58.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 219-R will receive exhibit No. 623.

22 (Whereupon, the document above
23 referred to was marked prosecution's exhibit
24 No. 623, and was received in evidence.)

25 MR. TAVENNER: I will read exhibit 623.

1 "Papers Relating to the Foreign Relations
2 of the United States, Japan: 1931-1941 (in Two
3 Volumes) Volume I (pp. 877-881).

4 "Interference with American Rights and Trade.
5 "Memorandum by the Under Secretary of State
6 (Welles). (Washington), September 20, 1940.

7 "The Japanese Ambassador called to see me
8 this afternoon at my request. I handed the Ambassador
9 the 'oral statement' which the Far Eastern Division had
10 prepared as a reply to the memorandum which the Ambassa-
11 dor had left with me on August 23."

12 I will omit reading down to the middle para-
13 graph of page 2.

14 "I said that the Ambassador was undoubtedly
15 aware of the information which had reached this Govern-
16 ment that the Japanese military representative in French
17 Indo-China, General NISHIHARA, had been instructed yes-
18 terday to present an ultimatum to the French Governor
19 General making demands which were tantamount to a
20 demand for complete occupation of French Indo-China,
21 with the threat that if these demands were not accepted
22 before ten p.m. Sunday, September 22, the Japanese
23 military forces would at once invade Indo-China. I
24 said the Ambassador was likewise in all probability
25 further informed that the French Governor General had

1 refused the demands in question. I said that therefore
2 the civilized world was confronted with a spectacle
3 which in all probability meant that in the immediate
4 future the Government of Japan, in addition to the acts
5 of aggression which it had committed against the Govern-
6 ment of China during the past nine years, especially
7 during the past three years, was now about to commit
8 an act of aggression on a colonial possession of the
9 Government of France.

10 "I then read to the Ambassador from a memoran-
11 dum which had been prepared by the Far Eastern Division
12 the various official utterances of Japanese statesmen
13 and the spokesmen during the past six months in which
14 they had repeatedly reiterated as the official posi-
15 tion of the Japanese Government the desire of the latter
16 to maintain the status quo in the Far East and in the
17 course of which statements they had upon repeated occa-
18 sions indicated their entire concurrence with the United
19 States in the expressed desire of the latter that the
20 status quo be maintained. I said that here was once
21 more presented a flagrant case where the official
22 announcements of the Japanese Government were completely
23 counter to the policies and acts of its military
24 authorities, and I concluded by saying that I was, of
25 course, fully aware that the Japanese Ambassador himself

1 could be under no misapprehension as to the very serious
2 disquiet and very open opposition which the action
3 threatened by the Japanese Government would create in
4 the minds of the members of the United States Govern-
5 ment and on the part of public opinion in general in
6 this country.

7 "The Japanese Ambassador at first attempted
8 to say that all that the latest demands made by General
9 NISHIHARA amounted to was compliance with the agree-
10 ment reached on August 30 between the Vichy Government
11 of France and the Japanese Government. I immediately
12 stated that this obviously was not the case since the
13 demands had been rejected by the French Governor General
14 of Indo-China on the specific ground that they were
15 entirely outside of the scope of the agreement of
16 August 30. The Ambassador then said that he had not
17 been informed of the exact terms of the ultimatum pre-
18 sented and that he had not been advised of the confir-
19 mation of this information which had been given to
20 Ambassador Grew by Foreign Minister MATSUOKA the night
21 before.

22 "The Ambassador said that I should bear in
23 mind the fact that there was a very great likelihood
24 that Japan was undertaking the occupation of French
25 Indo-China not only as a means of expediting a conclusion

1 of the hostilities in China and solely as a temporary
2 measure with no thought of a permanent occupation of
3 the colony, but also as a means of preventing the
4 German Government, should Germany now prove victorious
5 in her battle with Great Britain, from occupying the
6 French, British, and Dutch possessions in the Far East.

7 "To this I said that it would seem to me
8 obvious that if the Japanese Government found it neces-
9 sary, for reasons of which we were not aware, to con-
10 sider taking precautionary measures as a means of
11 preserving, rather than disrupting, the status quo in
12 the Far East, this Government would not only have been
13 willing, but glad, to discuss those possibilities with
14 the Japanese Government since, as I had said before,
15 it had repeatedly been stated by this Government as its
16 considered policy that it would support the whole
17 structure of international treaties and agreements
18 covering the maintenance of the stability and the status
19 quo in the Far East, except in so far as modifications
20 thereto might be agreed upon through negotiation and
21 peaceful processes. I said that I could hardly accept
22 with any sincerity the argument that Japan was now
23 occupying French Indo-China solely in order to prevent
24 Germany from undertaking such occupation.

25 "The Ambassador then said that this Government

1 only recently, as a means of insuring its own security,
2 had obtained air and naval bases on British possessions
3 in the Western Hemisphere.

4 "I said to the Ambassador that I was sorry to
5 have to say that I could imagine no parallel less well
6 chosen than that he mentioned for the action which the
7 Japanese Government contemplated in French Indo-China.
8 On one side -- the Anglo-American side, we had an agree-
9 ment freely entered into on a basis of give and take,
10 and reached because of the belief of the two Govern-
11 ments that the bargain so consummated enhanced the
12 security of the two nations involved; whereas on the
13 other hand, we had a demand presented by Japan to
14 French Indo-China stating that if the local authorities
15 would not immediately pave the way for complete occu-
16 pation of the entire territory by Japanese troops,
17 the Japanese troops were going to walk in and take
18 charge by force through acts of aggression. I said I
19 could not for the moment accept any parallel between
20 the two questions."

21 I will omit reading the next paragraph.

22 Signed "S(umner) W(elles)."

23 MR. ONETO: I offer in evidence prosecution
24 document 38 (Supplement). It is a memorandum by the
25 United States Ambassador to Japan, bearing the date

1 20 September 1940, relating to the movement of Japanese
2 troops through Indo-China. It is taken from an official
3 publication of the United States entitled "Foreign
4 Relations, United States and Japan," 1931-1941,
5 Volume II, which is in evidence as exhibit No. 58.
6

7 THE PRESIDENT: Admitted on the usual -- are
8 you objecting, Mr. Cunningham?

9 MR. CUNNINGHAM: I do not believe we have it,
10 your Honor. I do not find it in our files.

11 THE PRESIDENT: It is admitted on the usual
12 terms, subject to the defense being supplied with a copy.

13 My earphones are out of order and I do not
14 care to use General Cramer's. He has kindly lent me
15 his.

16 We will recess now until half past one.

17 (Whereupon, at 1200, a recess was
18 taken.)

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n1 AFTERNOON SESSION
23 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: Mr. Oneto.

6 MR. ONETO: Mr. President, I wish to add
7 that included in document No. 38 Supp., there is a
8 second document No. 201-B(2) and that this document
9 is in the hands now of the defense.10 Mr. President, allow me to correct an error
11 in interpretation. I wanted to say that the document
12 that I presented this morning, 38 Supplementary, also
13 bears No. 220-D(2) and under this number it has been
14 distributed to the defense.

15 THE PRESIDENT: Yes. Mr. Tavenner.

16 CLERK OF THE COURT: Prosecution's document
17 No. 38 Supp., also known as 220-D(2) will receive
18 exhibit No. 624.19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 624 and was received in evidence.)

22 MR. TAVENNER: I will read exhibit 624:

23 "Excerpt from 'Foreign Relations, United
24 States and Japan, 1931-41, Vol. 2.

25 "Advances towards the Southern Area.

1 "Memorandum by the Ambassador in Japan (Grew)
2
3 "(TOKYO,) September 20, 1940.

4 "An appointment was made with Mr. MATSUOKA
5 on the afternoon of September 20, after the Depart-
6 ment's telegram (357, September 19, 9 p.m.) had been
7 received and decoded, and I precisely acted upon the
instructions of the Department.

8 "Mr. MATSUOKA in reply said that apart from
9 some minor changes, the particulars of which were not
10 mentioned, the reports are correct that an ultimatum
11 had been presented to the Governor General of Indo-
12 China by General NISHIHARA. The situation was then
13 explained to be as follows, by the Minister:

14 "The French Ambassador, under instructions
15 of the French Government, and the Japanese Government
16 on August 30 had signed an agreement in Tokyo. Pro-
17 visions of the agreement were inter alia for the move-
18 ment of troops of Japan through Indo-China and the use
19 temporarily of airports. The Governor General of
20 Indo-China was on September 6 ready to sign an agree-
21 ment which would have implemented the agreement signed
22 in Tokyo on August 30, but he refused for reasons not
23 evident to the authorities of Japan and obstructed
24 the implementation of the agreement signed in Tokyo.
25 The Japanese Government felt obliged, although with

1 reluctance, to ask the French Government whether the
2 actions of the Governor General were subject to con-
3 trol by the French Government, since the Governor
4 General continued to be uncooperative, and whether on
5 the basis of the agreement signed in Tokyo the French
6 Government was exhibiting good faith. The French
7 Government said that it was, and as evidently the
8 Governor General was not acting in good faith and as
9 the Japanese authorities were aware that to foreign
10 Consuls stationed in Indo-China the Governor had
11 boasted that he was using obstructive tactics, the
12 Japanese ultimatum reported was necessarily presented.

13 "The purpose of the measures taken was,
14 said the Minister, to enable the Japanese forces to
15 attack Chiang Kai-shek and to bring peace to China.
16 As soon as hostilities have ceased, he said, the
17 Japanese forces would be withdrawn at once; the in-
18 tegrity and sovereignty of Indo-China would be accorded
19 full respect, and as a consequence there would be no
20 interference in East Asia with the status quo. The
21 Minister said that he, Prince Konoye, and other Govern-
22 ment members were representative of a minority opinion
23 in Japan and that it was their determination that
24 Japan should not oppress, exploit or interfere with
25 other countries' integrity. He said that a struggle

1 was taking place against extreme elements within the
2 country on this issue. My interruption at this point
3 was to the effect that clauses pertaining to commerce
4 and economics in Indo-China were within the scope of
5 the agreement. No denial was made to my statement
6 but I was assured that exploitation would not ensue.

7 "The terms of the agreement between France
8 and Japan signed on August 30 were confidential, said
9 the Minister, and their divulgence by either of the
10 signatories would nullify them. He said he could
11 confidentially tell me, however, that France had
12 broached the subject first and a request was made for
13 a renewal of guarantees pertaining to the integrity
14 of Indo-China based on the agreement between France
15 and Japan which was negotiated at approximately the
16 same time as the Anglo-Japanese Alliance was concluded.
17 He did not recall the exact date but said that the
18 agreement was in effect and registered with the League
19 of Nations. (This presumably is the agreement of
20 June 10, 1907, between France and Japan.) The Minister
21 was interrupted with my question as to what country's
22 encroachments France desired guarantees against. Mr.
23 MATSUOKA said that this was a moot question. He went
24 on then to say that permission had been asked by Japan
25 for the movement of forces across Indo-China and for

1 the use temporarily of airports as 'compensation'
2 for complying with the French request. This inform-
3 ation was given me in confidence, he emphasized, and
4 its accuracy would of necessity be denied in event
5 of publicity.

6 "The Minister talked lengthily, but in spite
7 of this and his illogical reasoning the meaning of
8 his remarks is reported to the Department with all
9 possible precision. The Minister upon the conclusion
10 of his remarks left at once to fulfill another engage-
11 ment and I could say only that if Japanese troops
12 moved into Indo-China my Government would regard it
13 emphatically as an infringement of the status quo
14 which the Japanese Government had already pledged
15 to preserve, and that a further statement of the at-
16 titude of my Government was reserved until considera-
17 tion had been given to my report.

18 "I presented to the Minister the substance
19 of the Department's 355, September 18, 6 p.m., which
20 replied to the oral statement of the Vice Minister
21 to me of September 14, before I left.

22 "J(oseph) C. G(rew)."

23 MR. ONETO: I present for introduction in
24 evidence prosecution document 4025-E, Part 2. It is
25 a report of a telephone conversation between the

1 chairman of the French delegation to the Armistice
2 Commission and the chairman of the German Armistice
3 Commission which took place on 20 September 1940. It
4 is not signed but it is a captured German document.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 4025-E, Part 2, will receive exhibit No. 625.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 625 and was received in evidence.)

11 MR. TAVENNER: I will read exhibit 625:
12 "German Armistice Commission, WIESBADEN
13 "Information by telephone, 20 September
14 1940, 2300 hours.

15 "The chairman of the French Delegation to
16 the Armistice Commission, General BOYEN, sent the
17 following note to the Chairman of the German Armistice
18 Commission, General VON STUELPNAGEL tonight:

19 "General! On orders of my government I have
20 the honor to inform you of the following. Since the
21 beginning of September negotiations have been under
22 way in HANOI between the Governor General and a Japan-
23 ese military delegation, regarding alleviations to be
24 granted the Japanese troops in Indo-China for marching
25 through. A basic agreement was reached on 5 September,

1 determining the details of such a passage. When the
2 technicalities of this agreement seemed thus settled,
3 the Japanese delegation brought forth a series of
4 completely new demands. Under the pretext of air
5 bases to be established, the Japanese now demand, as
6 a matter of fact, the permanent stationing of 32,000
7 troops in Indo-China. The acceptance of this demand
8 would actually amount to the military occupation of
9 TONGKING, likewise bringing on the danger of serious
10 reactions on the part of the population.

11 "Since the Japanese military authorities
12 have in the meantime stated that they would have
13 their troops march into TONGKING at midnight, 22
14 September, whatever the state of the negotiations
15 maybe, the French government has ordered Admiral
16 DECOUX to inform the Japanese military authorities
17 of the desire of the French government to speed up
18 the termination of the pending negotiations as much
19 as possible; that, however, extension of the time-
20 limit was necessary for factual reasons, owing to
21 slow communications. In case the Japanese threat
22 is carried out, Admiral DECOUX is to resist it by
23 force, while endeavoring to localize the incident.
24 The French Ambassador in TOKYO has been ordered to
25 inform the Japanese government accordingly.

1 "Transmitted to Embassy Rome on 21 September
2 1940, 1.30 hours by Telegram No. 1319 for the in-
3 formation of the German Foreign Minister."

4 MR. ONETO: KIDO's diary was admitted in
5 evidence for identification only as exhibit 178. I
6 now desire to introduce in evidence prosecution
7 document 1632-W, Part 39, the entry of 9 September
8 1940 from said diary.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document
11 No. 1632-W, Part 39, will receive exhibit No. 626.

12 (Whereupon, the document above
13 referred to was marked prosecution's exhibit
14 No. 626 and was received in evidence.)

15 MR. TAVENNER: I will read exhibit 626:
16 . "Extract from Entry from Marquis KIDO's
17 Diary -- 9 September 1940.

18 "The Chief Aide-de-Camp reported that the
19 military agreement parley, which had been making
20 smooth progress with the Governor-General, had taken
21 a turn for the worse since the advance of one battalion
22 or so of our troops into French Indo-China."

23 MR. ONETO: I now desire to introduce in
24 evidence prosecution document 1632-W, Part 42, which
25 is the entry of 14 September 1940 from KIDO's diary.

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Prosecution's document
4 No. 1632-W, Part 42, will receive exhibit No.627.

5 (Whereupon, the document above
6 referred to was marked prosecution's exhibit
7 No. 627 and was received in evidence.)

8 MR. TAVENNER: I will read exhibit 627:
9 "Extract from Entry from Marquis KIDO's
10 Diary

11 14 September, 1940.

12 "14th September, 1940.

13 "Extract.

14 "At 11:00 a.m. Foreign Minister MATSUOKA
15 met me before and after being received in audience
16 and said that he was going to send an ultimatum to
17 French Indo-China.

18 "After MATSUOKA, both of their Highnesses,
19 the Chiefs of Staff, submitted reports to His Majesty.
20 In this connection, I was immediately received in
21 audience and was told by His Majesty to the effect
22 that MATSUOKA's statement and that of the Army General
23 Staff Hqrs. did not seem to coincide exactly, but there
24 would be no other way except to let the government
25 carry out its policy under the present circumstances.

1 On being asked my opinion, I said to His Majesty
2 that if we let matters continue without doing anything,
3 the mischief making of England and the United States
4 would become more and more serious and an opportunity
5 might be given for them to cooperate with French Indo-
6 China and China. I replied that I should like to request
7 that His Majesty direct us to be careful before taking
8 any action, and to give his approval even though
9 matters stand as they do."

10 THE PRESIDENT: Mr. Logan.

11 MR. LOGAN: If the Tribunal please, I would
12 like to refer to the language section the last part of
13 the paragraph just read, beginning on the seventh line
14 of that paragraph. The line commences: "On being
15 asked my opinion," and so forth. In that line, "On
16 being asked my opinion, I said to His Majesty that" --
17 there should be inserted between the words, "Majesty,"
18 and "that," either the words, "I heard," or the words,
19 "It is said to be"; and the last line of that paragraph
20 should read, "I replied that I should like to request
21 that His Majesty direct us to be very careful before
22 taking any action and to give his approval to exactly
23 what the government intends to do."

24 THE PRESIDENT: The matter is referred to
25 the language section. In the meantime the prosecution

1 will proceed with the presentation of the balance of
2 its evidence.

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MR. ONETO: I offer in evidence prosecution document 837-A. It is a statement of Japanese Foreign Policy, 28 September 1940, and was obtained from the Japanese Foreign Ministry.

THE PRESIDENT: Admitted --

MR. BLEWETT: If your Honor please.

THE PRESIDENT: Mr. Blewett.

8 MR. BLEWETT: This document so far as the
9 defense is concerned was not supplied with a certificate
10 as to origin and there is no signature on the original
11 and I am also notified by our Japanese counsel that
12 there is no official stamp attached to the original.

THE PRESIDENT: Admitted conditionally and otherwise on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 837-A will receive exhibit No. 628.

(Whereupon, prosecution's exhibit
No. 628 was received in evidence.)

19 MR. TAVENNER: I will read exhibit 628:

"JAPANESE FOREIGN POLICY"

I will omit the first four paragraphs.

"VERY SECRET

"Outline of .

"(28 Sept. 1940)"

I will omit down

1 "IV. Establishment of the Greater East Asia
2 Co-Prosperity Sphere.

3 "(1) In the regions including French Indo-
4 China, Dutch East Indies, Strait Settlement, British
5 Malaya, Thailand, the Philippine Islands, British
6 Borneo and Burma, with Japan, Manchukuo and China as
7 centre, we should construct a sphere in which politics,
8 economy and culture of those countries and regions are
9 combined.

10 "(a) French Indo-China and Dutch East Indies.
11 We must, in the first place, endeavor to conclude a
12 comprehensive economic agreement (including distribution
13 of resources, trade adjustment in and out of the Co-
14 Prosperity Sphere, currency and exchange agreement, etc.),
15 while planning such political coalitions as the recognition
16 of independence, conclusion of mutual assistance pact,
17 etc.

18 "(b) Thailand. We should strive to strengthen
19 the mutual assistance and coalition in political,
20 economic, and military affairs."

21 I omit reading down to the end of "(e)" on
22 page four.

23 "Very Secret

24 "Tentative Plan for Policy towards the South-
25 ern Regions

1 "October 4, 1940.

2 "Although the objective of Japan's penetration
3 into the Southern regions cover, in its first stage,
4 the whole area to the west of Hawaii excluding for the
5 time being the Philippines and Guam; French Indo-China,
6 the Dutch East Indies, British Burma and the Strait
7 Settlements are the areas where we should first control.
8 Then, we should gradually advance into the other areas.
9 However, depending upon the attitude of the United
10 States Government, the Philippines and Guam will be
11 included.

12 "(1) French Indo-China

13 "(a) We should maneuver an uprising of an
14 independence movement, and should cause France to renounce
15 its sovereign right. Should we manage to reach an
16 understanding with CHIANG Kai-shek, the TONGKING area
17 will be managed by his troops, if military power is
18 needed. However, Japanese military advisers should be
19 appointed to the positions which cannot be ignored by
20 the operations section. According to circumstances,
21 we should let the army of Thailand manage the area of
22 CAMBODIA.

23 "(b) The foregoing measures must be executed
24 immediately after a truce has been concluded with
25 CHIANG Kai-shek. If we do not succeed in our move with

1 CHIANG Kai-shek, these measures should be carried out
2 upon the accomplishment of the adjustment of the battle
3 line in China. However, in case the German military
4 operations to land on the British mainland, which is
5 to be mentioned later, takes place, it may be necessary
6 to carry out our move towards French Indo-China and
7 Thailand regardless of our plans for CHIANG Kai-shek.
8 (This is to be decided according to the liaison with
9 Germany.)

10 "(c) If military and economic alliances are
11 concluded between Japan and China, and Japan and Thailand;
12 the TONGKING area shall be subjected to China, the
13 CAMBODIA area to Thailand, and the other areas shall
14 be independent. Between Japan and these areas, a
15 protective treaty under the title of military and economic
16 alliance shall be concluded so that we can hold the
17 real power. However, steps shall be devised to enable
18 Japan to hold strategic points in every area.

19 "(d) In the new independent States, the right
20 of enterprise for the nationals of the third countries
21 with which we are at peace will be recognized. But,
22 they will have to follow the Government's instructions
23 in developing important resources, and in disposing of
24 the products."

25 I will omit reading down to the item "(b)" on

1 page six.

2 "(b) We should conclude a military alliance
3 with Thailand, and use Thailand as a rear base. However,
4 in order to delay her in making preparations, it is well
5 to pretend that the diplomatic relations between Japan
6 and Thailand are not secure until we start military
7 action. (In case we consider that the military alliance
8 cannot be kept in strict secrecy because of the internal
9 affairs of Thailand, there is room for consideration
10 that we should set up a secret committee based on the
11 non-aggression treaty between Japan and Thailand to
12 enable us to enter into a military alliance as soon as
13 we start military action.)"

14 I omit reading down to item "(e)" on page seven.

15 "(e) Following the case of French Indo-China,
16 the former territory of Thailand shall be returned to
17 Thailand and the other regions shall be made protector-
18 ates. But the Strait Settlements must be placed under
19 the direct rule of Japan.

20 "(f) In the newly established independent
21 countries the enterprise rights of the nationals of the
22 third countries with which we are at peace shall follow
23 the case in French Indo-China."

24 I omit reading down to the item "(d)" on
25 page nine.

1 "(d) The enterprise rights of the nationals
2 of the third countries with which we are at peace
3 shall follow the case in French Indo-China."

4 MR. LOGAN: If the Tribunal please, I would
5 like to call the attention of the Court to the fact
6 that the prosecution omitted on page two to show that
7 this was an outline of the plan with regard to Japanese
8 foreign policy and it was not the policy of Japan
9 itself; and furthermore, it does not appear whose plan
10 this is.

11 THE PRESIDENT: They have omitted many
12 material matters, apparently because they are going to
13 be presented by the prosecutors. That certainly
14 does not consider our convenience.

15 MR. ONETO: Mr. President, I
16 selected only the most important passages, but I am
17 at the disposition of the Court if it wishes to hear
18 it in its entirety.

19 THE PRESIDENT: Present your case as you have
20 prepared it.

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1 MR. ONETO: I offer in evidence prosecution
2 document No. 4025-E, Part 5. This is a memorandum
3 by Weizsaecher, dated Berlin, January 23, 1941, a
4 copy of which was distributed to the Foreign Minister.
5 It relates to a conversation Weizsaecher had on that
6 date with Ambassador KURUSU, who gave Weizsaecker the
7 background for the Japanese desire for Germany to
influence Vichy.

THE PRESIDENT: Mr. Furness.

MR. FURNESS: In this case, if your Honor
please, there is no certificate of origin. The only
certificate is one of translation.

I withdraw the objection, sir. A loose
certificate was delivered and was not attached to my
copy.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
No. 4025-E, Part 5, will receive exhibit No. 629.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 629 and was received in evidence.)

22 MR. TAVENNER: I will read exhibit 629:
23 "Berlin, 23 January 1941
24 "Today the Japanese Ambassador mentioned
25 to me the conversation between Ambassador Ott and the

1 Japanese Vice Foreign Minister re Indo-China.

2 "(Tokyo Telegram Report No. 85).

3 "KURUSU gave me the background to the
4 Japanese desire for Germany's influencing of
5 /Einflussnahme/ Vichy as follows:

6 "A Japanese advance southward in the
7 direction of Singapore was unthinkable without using
8 the land bridge of the Malacca peninsula. For this
9 Japan has to pass through both Indo-China and Siamese
10 territory. Therefore, any British influencing
11 /Einflussnahme/ in Siam must be prevented."

12 I will not read the remainder of the
13 telegram, signed "Weizsaecker."

14 MR. ONETO: I present document 4012 for
15 introduction in evidence. This is a telegram from
16 Vichy to the Secretary of State at Washington, dated
17 January 28, 1941, and signed "Leahy," regarding the
18 refusal by the Germans for the removal of any troops
19 to Indo-China.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Prosecution's document
22 No. 4012 will receive exhibit No. 630.

23 (Whereupon, the document above
24 referred to was marked prosecution's exhibit
25 No. 630 and was received in evidence.)

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1 MR. TAVENNER: I will read exhibit No. 630.

2 (Reading): "Telegram Received.

3 "This telegram must be closely paraphrased
4 before being communicated to anyone. (br)

5 "FROM "(Paris) Vichy. Dated January 28, 1941

6 "Received 6:35 p. m.

7 "Secretary of State, Washington.

8 "117, January 28, 5 p. m.

9 "Admiral Platon, Minister of Colonies told
10 me today that the Germans have now refused the removal
11 of any troops to Indochina. He said that this includes
12 not only the Senegalese battalions at Djibouti for
13 which the English had previously refused permission
14 but also the transfer of any troops from Dakar to that
15 area. In other words, he said, the Germans definitely
16 do not wish to see French defenses in Indochina strength-
17 ened." (Signed) "Leahy".

18 MR. ONETO: The Tribunal's attention is
19 invited to prosecution's document No. 4032-B, which
20 is in evidence as exhibit No. 562. This document
21 is a telegram from the German Ambassador in Tokyo to
22 the Reich Foreign Minister, 31 January 1941. It is
23 stated in this telegram that activistic circles in
24 Japan demand preventive attack on Singapore as the key
25 position in the West Pacific Ocean.

1 THE PRESIDENT: Admitted on the usual terms.

2 MR. ONETO: It was the conclusion of the
3 military specialists of the German Embassy in Tokyo
4 that the chances of success of such an attack are
5 favorable, that it will have to be carried out in steps
6 by occupying Saigon and landing on the Malayan Penin-
7 sula; and it was suggested that the role of inter-
8 mediary between Thailand and Indo-China gives Japan
9 the opportunity to establish herself in Saigon militar-
10 ily as the first politically unimpeachable step towards
11 the action against Singapore.

12 The Tribunal's attention is called to pros-
13 ecution document No. 4037-A which is in evidence as
14 exhibit 564.

15 MR. CUNNINGHAM: If the Court please, for a
16 minute I didn't know what was being read, but we object
17 to the testimony of the counsel. It seems that he is
18 not reading from any document that is in evidence but
19 merely giving additional information concerning one.

20 THE PRESIDENT: The point of the document is
21 already before us. I think it was put by Mr. Tavenner.

22 MR. BROOKS: Mr. President, I would like to
23 enter an objection that it is all right to point out
24 to the Court the document that is in evidence, but
25 I believe counsel is overstepping the line and is

1 arguing to the Court in that proper part of the pro-
2 ceedings that was can be read from the record. That
3 will show argument should be stricken, and we move
4 it be stricken from the record, the argument at this
5 time.

6 THE PRESIDENT: Well, each nation is entitled
7 to put its case separately and to put it clearly;
8 and that involves the right to describe these docu-
9 ments so far as description is necessary, although
10 the documents have already been described for the
11 purposes of other sections of the prosecution.

12 MR. BROOKS: If the President please, I
13 would like to refer it to the Court for a reading of
14 that portion of the proceedings of the record and to
15 see if he did not overstep the bounds of description
16 and did not enter into argument on that phase; and
17 if argument is found, ask that the Court take action
18 as it sees fit.

19 THE PRESIDENT: Each defendant putting his
20 case may claim that same right later.

21 MR. ONETO: I am speaking of the document
22 in evidence as exhibit 564. This document is a tele-
23 gram from the German Ambassador in Tokyo dated 6
24 February 1941. The document shows that at that time
25 the Japanese Government intended to obligate France and

1 Thailand by a secret agreement during the negotiations
2 concerning the settlement of the boundary dispute of
3 France and Thailand to make no political or military
4 agreement with a third power which was a part of
5 the strategic plan which finally culminated in the
6 use of French Indo-China and Thailand as a springboard
7 for the launching of the attack against Singapore.

8 THE PRESIDENT: Mr. Cunningham.

9 MR. CUNNINGHAM: If the Tribunal please, I
10 would like to object for the reason that the counsel
11 is placing his interpretation upon these documents
12 instead of reading pertinent material, and his intro-
13 duction of the documents is certainly more than a mere
14 description of what he expects to prove by it.

15 THE PRESIDENT: I think his reference to the
16 culmination of events does exceed description and
17 enters upon argument.

18 Mr. Logan.

19 MR. LOGAN: If the Tribunal please, I object
20 to the description that counsel used because I think
21 the words he used describing these documents import
22 more than what the documents themselves say. In other
23 words, he is talking about a springboard here. I
24 don't think you will find anything like that in any
25 of the documents to which he is referring. The same

1 thing happened yesterday when he was describing five
2 men who were involved in this phase. He said they
3 were in power in Japan at the time. It is the
4 descriptive adjectives which this counsel uses to
5 which we object.

6 THE PRESIDENT: I think he may show the
7 drift of the documents, but he should avoid argument.
8 I do not think he has offended seriously so far.

9 MR. ONETO (Speaking in French.)

10 THE FRENCH INTERPRETER: This has already been
11 translated.

12 MR. ONETO: I repeat: -- which was a part of
13 the strategic plan which finally culminated in the
14 use of French Indo-China and Thailand as a springboard
15 for the launching of the attack against Singapore.

16 THE FRENCH INTERPRETER: Mr. Oneto had not
17 actually spoken those words before this time.

18 MR. ONETO: Prosecution document No. 4037-F
19 is now offered in evidence. This document consists of
20 two telegrams. The first telegram is dated 9 February
21 1941 and is signed by the German Ambassador in Tokyo.
22 This telegram was sent to Tokyo. The names of the
23 persons to whom these messages were addressed do not
24 appear; however, each of the telegrams was found in
25 the files of the German Foreign Office.

1 THE PRESIDENT: Admitted on the usual terms.
2 CLERK OF THE COURT: Prosecution's document
3 No. 4037-F will receive exhibit No. 631.

4 (Whereupon the above-mentioned document
5 was marked prosecution's exhibit No. 631 and
6 received in evidence.)

7 MR. TAVENNE: I will read exhibit No. 631.

8 (Reading):

9 "TELEGRAM (Secret Cipher Process)
10 "Tokyo, 9 February 1941 7:50 o'clock
11 "Arrived: 9 February 18:00 o'clock
12 "No. 192 of 9 February 1941 MOST URGENT !
13 "SECRET :

14 "In answer to telegram No. 123 of the 3rd.

15 "The Vice Foreign Minister personally
16 handed to me a memorandum in the following content:

17 "1. Japan is honestly willing to support
18 Germany in the procurement of rubber and other raw
19 materials from the South-East Asian Sphere.

20 "2. The Japanese Government has taken notice
21 of the fact that Germany has concluded a contract for
22 the purchase of over 25,000 tons of raw rubber from
23 Indo-China and prepares the transport of this amount
24 from Indo-China to Dairon.

25 "3. Instruction requested as to what the

1 total amount of raw rubber is, which Germany (aside
2 from Indo-China rubber) still wants from South East
3 Asia this year.

4 "4. As it is to be expected that the ex-
5 port of raw rubber from the Malayan States and the
6 Netherlands Indies to Japan will be made difficult,
7 Japan will only be able to cover its own most necess-
8 ary requirements with difficulty there. In consider-
9 ation of this circumstance it will be necessary to
10 reach a compromise between the amount of raw rubber
11 desired by Germany and the amount actually able to
12 be delivered. The negotiations concerning this /are
13 to be made/ exclusively through diplomatic channels,
14 not, however, as has happened several times until now,
15 through military authorities.

16 "5. The Japanese Government requests in-
17 formation as soon as possible as to what raw materials
18 (kind and amount) besides rubber, Germany wishes to
19 obtain from the South East Asian areas still in this
20 year.

21 "The commercial execution of the business
22 will be taken over by Showa TSUSHU (compare Report
23 No. 220 of 2 August 1939 and following /ones/). As
24 representatives of the Hamburg exporters in question,
25 NIGGEMANN, Dairen, shall for the Germans, together

1 with SHOWA undertake the internal winding up. For
2 this purpose I have requested NIGGLMANN by telegram
3 to come here at once. I request that he be given the
4 necessary instructions via the Embassy.

5 Signed "OTT"

6 "Berlin, 17 February 1941

7 "Diplogerma TOKYO

8 "No. 179

9 "TELEGRAM IN CIPHER

10 "(Secret Cipher Process)

11 "(Secret Appendix to Secret Matters b)

12 "URGENT!

13 "To telegram No. 175 of 6 February.

14 "I request that you inform the Japanese
15 Government that the German Government welcomes the
16 Japanese intention that Thailand and France reach
17 no political or military agreements whatsoever with
18 a third power, whereby this obligation, as far as it
19 concerns France, was to apply only to Indo-China. I
20 request that you add that the armistice treaty, of
21 course, applies to France with all her possessions,
22 colonies, protectorates, so that we remain interested,
23 if only for this reason, in the further development of
24 affairs in Indo-China and therefore were awaiting
25 current information on affairs in Indo-China."

1 MR. ONETO: I now invite the Tribunal's
2 attention to prosecution's document No. 4037-C which
3 is in evidence as exhibit 565. It was a telegram
4 from the German Ambassador in Tokyo to the Reich
5 Minister personally dated 17 February 1941, in which
6 it is pointed out that the Japanese Government was
7 then working on a proposed compromise settlement in
8 the Thailand-Indo-China negotiations with respect
9 to which Japan would presently request the German
10 Government to influence the Vichy Regime to accept.

11 Prosecution's document 531-A is now offered
12 in evidence. This is an excerpt from the record
13 concerning the discussion of the German Foreign
14 Minister with the Ambassador OSHIMA in Fusch~~h~~l on
15 23 February 1941.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 531, to wit, extracts from a record of a conference
19 between Ribbentrop and General OSHIMA is given exhibit
20 No. 632 for identification only.

21 (Whereupon, the above-mentioned document
22 was marked prosecution's exhibit No. 632 for
23 identification only.)

24 CLERK OF THE COURT: And prosecution's document
25 No. 531-A, an axcerpt therefrom, is given exhibit No.

632-A.

1 ("hereupon, the above-mentioned document
2 was marked prosecution's exhibit No. 632-A and
3 received in evidence.)
4

5 MR. TAVENNER: I will read exhibit 632-A.
6

7 (Reading): "Top Secret: Excerpt from
8 the Record Concerning the Discussion of the German
9 Foreign Minister with Ambassador OSHIMA in Fuschl
on 23 February 1941.
10

11 "The friendship of Japan, so continued the
12 Foreign Minister of the Reich, had rendered for
13 Germany the possibility to arm, after the conclusion
14 of the Anti-Comintern Pact. Japan had, on her part,
15 been able to penetrate deeply into the English sphere
16 of interests in China. The victory of Germany on the
17 continent now brings to Japan also great advantages
18 after the conclusion of the Tripartite Pact. France
19 is eliminated from the position of a power in East
20 Asia (Indo-China), England is likewise greatly weakened
21 already, and Japan has been able to advance closer and
closer to Singapore."
22

I will not read the remaining part.
23

24 MR. ONETO: I now offer in evidence pros-
ecution's document 800-A which consists of two letters
25 each dated 11 March 1941. The first letter is

1 addressed to His Excellency Charles Arsene Henry,
2 French Ambassador, by Foreign Minister MATSUOKA;
3 the second letter is addressed to Foreign Minister
4 MATSUOKA in which the Ambassador acknowledges receipt
5 of the first-mentioned letter. These letters relate
6 to the proposed mediation plan for the Thailand--
7 French Indo-China dispute.

8 MR. FURNESS: Here again, if the Court please,
9 there is no certificate of origin.

10 THE PRESIDENT: Admitted conditionally and
11 otherwise on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 800-A will receive exhibit No. 633.

14 (Whereupon, the above-mentioned document
15 was marked prosecution's exhibit No. 633 and
16 received in evidence.

17 MR. TAVENNER: I will read exhibit 633.

18 (Reading):

19 "Exchange of letters between Foreign Minister
20 MATSUOKA and Ambassador HENRY (Re: Proposal of Med-
21 iation Plan for the Thailand-French Indo China
22 Dispute)

23 "11 March 1941

24 "His Excellency Charles Arsene HENRY
25 "French Ambassador Plenipotentiary

1 "Dear Sir:

2 "It is an honor for me to inform you that
3 the Imperial government attaches extreme importance
4 to the maintenance of peace in Greater East Asia.
5 According to the agreement of 30 August 1940, spec-
6 ial relationship between Japan and French Indo-
7 China has been agreed upon. It is with anxiety that
8 the Imperial government observes the development of
9 the dispute to which French Indo-China is a party.

10 "In view of the fact that peace must be
11 preserved in Greater East Asia and remembering our
12 peaceful and friendly intentions upon which we con-
13 cluded the above treaty, the Imperial government
14 purposes mediation to the governments of France and
15 Siam in order to end the dispute between French Indo-
16 China and Siam. The Imperial government has drafted
17 a mediation proposal as per enclosure, to which we
18 expect the French government to accept uncondition-
19 ally. If the French government accepts this pro-
20 posal, the Imperial government is prepared to guar-
21 antee the French government that the decision of the
22 dispute in the mediation proposal will be final
23 and unalterable.

24 "On the other hand, the Imperial govern-
25 ment believes that the French government will pro-

1 fess to maintain peace in Greater East Asia; espec-
2 ially to establish good neighbor friendly relation-
3 ship and also to promote close economic relationship
4 between Japan and French Indo-China. The Imperial
5 government also believes that the French government
6 will proclaim not to conclude any treaty or agree-
7 ment between French Indo-China and a third power that
8 will presuppose the nature of political, economic or
9 military cooperation to oppose Japan directly or in-
10 directly.

11 "It is comprehended that the aforementioned
12 guarantee of the Imperial government and declaration
13 of the French government should be confirmed by a
14 formal note at a later time when the treaty to settle
15 the dispute between France and Siam is concluded.

16 "I, Foreign Minister, avail myself of
17 this opportunity to renew to Your Excellency the
18 assurance of my highest consideration.

19 "Yours respectfully,

20 "Foreign Minister Yosuke MATSUOKA"

21 On page 2.

22 "To His Excellency

23 "Yosuke MATSUOKA, Minister of Foreign Affairs

24 "Tokyo, 11 March 1941

25 "No. 21

1 "By a letter of even date, Your Excellency
2 has informed me of the following:

3 "The Imperial Government, attaching the
4 highest importance to the preservation of peace in
5 Great East Asia, has witnessed with anxiety, the
6 development of a conflict involving French Indo-
7 China with which it maintains particularly close
8 relations which were further tightened by the agree-
9 ment of 30 August 1940.

10 "Looking toward the preservation of peace
11 in Great East Asia and taking its inspiration from
12 the same peaceful and friendly spirit which presided
13 over the establishment of the above-mentioned agree-
14 ment, the Imperial Government offered its good
15 offices to the Governments of France and Thailand so
16 as to put an end to the conflict between French Indo-
17 China and Thailand. Therefore, the Imperial Govern-
18 ment offers, for unconditional acceptance by the
19 French Government the plan of mediation annexed
20 hereto. In the case of an affirmative answer, the
21 Imperial Government will be prepared to guarantee to
22 the French Government the final and irrevocable
23 character of the settlement achieved by such plan.

24 "Besides, the Imperial Government is con-
25 fident that the French Government will work towards

1 the preservation of peace in Great East Asia, and
2 in particular towards the establishment of friendly
3 good-neighborly relations and towards the progress
4 of close economic relations between Japan and French
5 Indo-China, and that it will declare to the Imperial
6 Government that France, in regard to French Indo-
7 China, does not intend to enter with a third power
8 into any agreement or entente providing for polit-
9 ical, economic or military cooperation or indirect-
10 ly opposed to Japan.

11 "It is understood that the above-mention-
12 ed guarantee of the Imperial Government and statement
13 of the French Government will be confirmed later
14 on in a solemn document at the time of the establish-
15 ment of the Treaty on the settlement of the con-
16 flict between France and Thailand.

17 "I have the honour to acknowledge receipt
18 of this communication and to inform Your Excellency
19 that the French Government, although neither the
20 local situation, nor the fortunes of war compel it
21 to renounce the benefit of treaties freely negot-
22 iated and included with the Government of Thailand,
23 is prepared to yield to the insistencies of the Japanese
24 Government. By its acceptance of the plan of
25 mediation annexed hereto, the French Government,

1 which has constantly proved mindful of the preser-
2 vation of peace in East Asia and never entered upon
3 any course of action that might disturb such peace,
4 affords new proof of its fidelity to the spirit that
5 inspired the agreement of 30 August 1940. In this
6 same spirit and desirous, moreover, of avoiding all
7 engagements of such a nature as to involve its Far
8 Eastern possessions into a conflict between third
9 powers, it declares that it does not intend, in re-
10 gard to Indo-China, to enter with a third power upon
11 any agreement or entente providing for political,
12 economic or military cooperation directly or indirectly
13 opposed to Japan. It anticipates, moreover, that the
14 Japanese Government will be anxious to assure the
15 strict observance of the agreement of 30 August
16 1940 and of the subsequent military arrangements.

17 "Please accept, Monsieur le Ministre, the
18 assurances of my highest esteem.

19 "Charles Arsene Henry

20 "Ambassador Plenipotentiary of France"

21 THE PRESIDENT: We will recess now for
22 fifteen minutes.

23 (Whereupon, at 1445, a recess was
24 taken until 1505, after which the proceedings
25 were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Mr. Oneto.

4 MR. ONETO: The attention of the Tribunal is
5 invited to prosecution document No. 4038-A, which is
6 in evidence as exhibit No. 566. This document is a
7 telegram from BOLTZE an official in the German Em-
8 bassy in Tokyo and is dated 12th March 1941, and re-
9 fers to the visit of the Foreign Vice Minister OHASHI,
10 setting forth that the Japanese Vice Minister OHASHI
11 had asked the German Representative in Tokyo to con-
12 vey to the Reich Foreign Minister, the gratitude of
13 the Japanese Government for the valuable and ef-
14 fective support they had received from Germany in the
15 mediation of the dispute between Thailand and French
16 Indo-China.

17 The attention of the Tribunal is also in-
18 vited to prosecution document No. 907, which is a
19 basic document and is in evidence as exhibit No. 47.
20 It is a copy of the Peace Agreement between France
21 and Thailand, dated May 9, 1941.

22 Prosecution document No. 653 A is presented
23 for introduction in evidence. This is a Memorandum
24 dated 10 May 1941 from the Chief of Staff of the
25 French Indo-China Expeditionary Force to the Vice

1 Minister of War, the accused KIMURA, Neitaro. It is
2 related to the actions of a French Indo-Chinese
3 official in relation to the injury of a Japanese
4 military employee by a French Indo-Chinese soldier,
5 10 May 1941.

6 THE PRESIDENT: Admitted on the usual terms.
7 Mr. Logan.

8 MR. LOGAN: If the Tribunal will note our
9 objection, there is no certificate attached to this
10 document either.

11 THE PRESIDENT: Well, any document without
12 a certificate will be admitted conditionally. I need
13 not repeat that. That will be one of the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 653 A will receive exhibit No. 634.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution's exhibit No.
18 634 and received in evidence.)

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1 MR. TAVENNER: I will read exhibit 634.

2 "Indo-China --

3 THE PRESIDENT: Omit the heading; we already
4 have it. I said, omit the heading; we have it already.

5 MR. TAVENNER: (Reading)

6 "CHO, Isamu, Chief of Staff of the French
7 Indo-China Expeditionary Force.

8 "To: Vice Minister of War, KIMURA, Heitaro.

9 "We shall inform you as follows our secret
10 agent's report (accuracy A) on the aforementioned sub-
11 ject:

12 "The incident causing injury to a Japanese
13 military employee by a French Indo-Chinese soldier in
14 an Annamese house of prostitution, Citadel Street,
15 Hanoi, on the night of the 24 April caused a great shock
16 to the French Indo-China authorities. At present there
17 exist both a pessimistic and an optimistic view among
18 the official concerning this matter. But the majority
19 of them possess pessimistic views and generally look
20 upon this affair as a regretful event that would bring
21 about a grave crisis in the friendly relations between
22 Japan and French Indo-China.

23 "They are possessed with the credulous thought
24 that this affair might serve as a fuse giving possi-
25 bility of opening hostilities between the two countries,

1 or the presentation of grave demands by the Japanese
2 to French Indo-China. They are in a state of panic
3 and are giving sincere efforts to bring about an amicable
4 settlement of this affair and at the same time fear the
5 retaliatory actions of the Japanese. They strictly
6 forbid the French in general, notably the military
7 service men, to visit the Japanese streets and areas
8 where the Japanese frequent, especially near the houses
9 of prostitution and liquor serving places. In this way,
10 they are only endeavoring to avoid unforeseen accidents
11 in the future. The state of affairs is as follows:

12 "Actions of the French Indo-China authorities,
13 according to the views taken by the French Indo-China
14 authorities:

15 "(1) Pessimistic views

16 "They consider this affair as a fuse with
17 probabilities of inciting a war between Japan and
18 French Indo-China, judging from the example which
19 gave cause to the outbreak of the China Incident, in-
20 curred through the kidnap and murder of a Japanese
21 soldier by the Chinese Army near the Marco Polo Bridge
22 in July (SHOWA 12) 1937.

23 "On the other hand, anticipating that the
24 Japanese Army might demand expansion of the rights of
25 self-defense, using this affair as a pretense, and with

such wording as 'necessary for the self-defense of the army', or to make a demand to increase additional forces, they are racking their brains to find means of establishing counter-measures.

"In order to prevent aggravation of the situation they have adopted policies in which they are ready to give sacrifice, to some extent, for an amicable peace settlement of the affair. They are trying to moderate the firm attitude of the Japanese by resorting to policies of conciliation, such as the arrest of the offender, his strict punishment, the condoling of the victim and the consolation and favours to be extended to the bereaved family. Thus, they are trying to lead the affair to a friendly settlement. Anticipating that the Japanese side will take retaliatory measures, the Bureau of Administrative Affairs of the Governor General's Headquarters gave orders to the Hanoi Detective Bureau to compile and submit a list of the houses of prostitution and bars which the Japanese frequent, directly after the said incident. At the same time they strictly forbade the French, in general, especially military men, to enter the zones where the Japanese gather and places near the houses of prostitution, and thereby avoid unforeseen occurrences.

"(2) Optimistic Views:

"There are some among the French who point

1 out and refer to the changed international situation
2 since the previous year, especially on the recent in-
3 crease of crises in the Far East, emphasizing the
4 aggravation of American-Japanese relations.

5 "They maintain that as the Japanese Army is
6 now in a position where it is being forced to reorganize
7 its troops in preparation against the extreme aggra-
8 vated situation prevailing in the relations between
9 Japan and America, it is impossible for the Japanese
10 to carry out positive military policy in French Indo-
11 China availing itself of the said incident. They
12 advocate the optimistic view that it would be very
13 easily settled on friendly terms.

14 "The views maintained by the Army regarding
15 the above:

16 "The views maintained by the French Indo-China
17 authorities are as above-mentioned and they are extreme-
18 ly in fear of the expansion of this incident and the
19 action of the Japanese Army on the right of self-
20 defense.

21 "Since the actual state of affairs is one in
22 which they are desirous of having an amicable settle-
23 ment, regardless of the cost of compensation, we think
24 that it is only fair for us to demand the investiture
25 of power from the French Indo-China authorities, as the

1 following, with a firm attitude and a definite purpose:

2 "1. The increase and strengthening of the
3 rights of stationing troops. Despite the fact that
4 the number in military force amounts to 6,000, accord-
5 ing to the current Japanese-French agreement, the Jap-
6 anese Army shall station the required additional number
7 of forces and expand the area of stationing troops to
8 the whole of Tongking if found necessary for the
9 solution of the Sino-Japanese conflict.

10 "2. The enlargement of the area of action
11 of the Japanese Army. The Japanese Army will be given
12 the right to act freely within the Province of Tong-
13 king when required from the point of military operation
14 and educational training. Despite the fact that at
15 present the Japanese civilian populace, excepting the
16 military men, are permitted to travel in Chuong Binh
17 and Lang-son areas, which are considered most important
18 from the standpoint of military official duties, the
19 military men are forbidden to travel. Moreover, when
20 a small unit is to engage in manoeuvres, negotiations
21 must be done beforehand with the French Indo-Chinese
22 authorities. The situation is that permission by the
23 Governor-General is required, with condition that a
24 French military officer be allowed to study and observe
25 the manoeuvre. In manoeuvres where many secret matters

1 are involved we had to suffer special disadvantages.

2 "3. Freedom in selecting housing. For
3 Japanese Army barracks the Annamese primary schools are
4 chiefly provided, which offers but narrow and unsan-
5 itary places. They intend to gain two advantages, -
6 killing two birds with one stone that is, of alienating
7 Japan from Annam and that of distressing the Japanese
8 Army. Furthermore, they have set up a new police sub-
9 station near the officers' billet to keep eyes on the
10 movements of the officers. They are also secretly
11 oppressing the Annamese, who show favours to the
12 Japanese Army, and in this way they are trying to force
13 out pro-Japanese tendencies. They are by no means
14 friendly.

15 "It is necessary that they provide appropriate
16 buildings that could be used for headquarters and
17 barracks of the Japanese Army.

18 "4. Freedom of travel in French Indo-China.

19 "At present we have to file an application to
20 the Governor-General requiring his permission, and even
21 if we receive permission, they would always attach a
22 Frenchman to go with us, thus restricting our freedom
23 of actions. It is necessary that we acquire the rights
24 of freedom to travel, like the French-Indonesian, except
25 in zones where no trespassing is allowed because of

1 military reasons.

2 "5. We demand the free use of airfields.

3 Desp' the fact that the Army is installing new
4 facilities such as runways, etc. at the Haiphong airfield
5 now being used by the Japanese troops, the amount in
6 rent charges demanded by the French Indo-China author-
7 ities amounts to ¥35,000 annually. When we add the
8 rent charges of the Gia-lam Airfield the amount rises
9 to a considerable sum. On this occasion we deman free
10 use of them.

11 "Report: NAMI Group.

12 "Reference: To the Vice-Chief of the General
13 Staff; Vice-Minister of War."

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1 MR. ONETO: The Tribunal's attention is now
2 invited to prosecution document No. 4061 A, which is
3 in evidence as exhibit No. 586. This is a secret
4 memorandum from WOERMANN to the Reich Foreign Min-
5 ister, dated the 10th June 1941, setting forth that
6 Ambassador OSHIMA wanted to see the Reich Foreign
7 Minister and to discuss with him among other things
8 the desire of the Japanese Army to obtain bases for
9 the fleet and the Navy in French Indo-China.

10 I now offer in evidence prosecution document
11 No. 4081 E, which is a telegram dated 21 June 1941.
12 This telegram is from the Ambassador in Tokyo to the
13 German Foreign Minister, concerning a conversation
14 the German Ambassador had with MATSUOKA on the
15 latter's invitation.

16 THE PRESIDENT: Admitted on the usual terms.
17 CLERK OF THE COURT: Prosecution's document
18 No. 4081 E will receive exhibit No. 635.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution's exhibit No.
21 635 and received in evidence.)

22 MR. TAVENNER: I will read exhibit 635:
23 "Telegram (Secret Cipher Process).
24 To be kept in locked file. Tokyo, 21 June 1941.
25 1030 hours. Arrival, 21 June 1941, 2015 hours. Most

1 urgent. For German Foreign Minister.

2 "MATSUOKA, who had invited me, told me the
3 following information during a long conversation:

4 "1). Renewed negotiations between Japan
5 and the Netherlands Indies is not to be expected.
6 Existing tension unbearable in the long run. For
7 proceeding against the Netherlands East Indies, air
8 and naval bases must be set up in French Indo-China.
9 Hence he had asked through Ambassador OSHIMA whether
10 French consent to this could be obtained by Berlin,
11 otherwise he would take up the matter with VICHY
12 directly."

13 I will not read the remainder of the telegram.

14 MR. ONETO: I now produce prosecution
15 document No. 4062 A for introduction in evidence.
16 This document is a telegram from the German Ambassador
17 in Tokyo, dated 3 July 1941, to the German Foreign
18 Minister.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document
21 No. 4062 A will receive exhibit No. 636.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution's exhibit
24 No. 636 and received in evidence.)

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1 MR. TAVENNER: I will read the exhibit.

2 "Telegram (Secret Cipher process). To be kept
3 in locked file. Tokyo, 3 July 1941. Arrival, 3 July
4 1941. No. 1102 of 2 July 1941.

5 "For German Foreign Minister TELKO, 3 July '41.
6 Following telegram of 2nd, No. 1101.

7 "Note: Sent on to special train under No. 2131.

8 "Text of declaration of Japanese Foreign
9 Minister follows: Oral statement. Strictly confiden-
10 tial. (Translation).

11 "Please convey the following to His Excellency
12 Herr von Ribbentrop:

13 "I have duly noted your Excellency's request
14 made through Ambassador General Ott in Tokyo and Ambas-
15 sador General OSHIMA in Berlin. I have taken particular
16 care in studying the views set forth by your Excellency
17 in approaching the Japanese Government with the request."

18 I will omit reading the next paragraph.

19 "At the same time I beg to state that the
20 Japanese Government have decided to secure points
21 d'appui in French Indo-China which will enable Japan
22 further to strengthen her pressure upon Great Britain
23 and the United States. In this connection I would like
24 to draw your Excellency's attention to the fact that
25 Japan has been keeping constant vigil in the Pacific,

1 including the southwestern ocean with a view to restraining
2 these two powers and will continue the efforts and
3 even intensify them, if necessary."

4 I omit reading the rest of the telegram.

5 "Signed OTT."

6 MR. ONETO: I offer in evidence prosecution
7 document No. 1077, which is a report of the proceedings
8 of the Privy Council concerning the ratification of
9 the Franco-Japanese Protocol on Guarantee and Political
10 Understanding, and of the Thai-Japanese Protocol on
11 Guarant' and Political Understanding.

12 This was held on 3 July 1941.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Prosecution's document
15 No. 1077 will receive exhibit No. 637.

16 (Whereupon, the document above
17 referred to was marked prosecution's exhibit
18 No. 637, and was received in evidence.)

19 THE PRESIDENT: Captain Brooks.

20 MR. BROOKS: If the Tribunal please, I would
21 like to call to the Court's attention, on exhibit 636,
22 that there is an affidavit attached as to the origin
23 of the document.

24 I submit to the Court's attention, paragraph 4
25 of that affidavit, that "the document to which this

1 affidavit is attached is a true and correct photostatic
2 copy of an original German Foreign Office document
3 which was captured from said German Foreign Office,
4 filed in archives, and which came to my possession and
5 custody and under my control in the manner above set
6 forth."

7 I would submit for the Court's consideration,
8 first, that the affidavit is not attached, as stated
9 here, to the original document. There is no attach-
10 ment. And second, that in lieu of that, there is not
11 sufficient showing of the origin of this document or
12 tying in between the affidavit and the document or the
13 substance referred to as being put in evidence.

14 I submit that for the Court's consideration,
15 as to what action should be taken as to the type of
16 certificate of origin, whether there should not be a
17 tying in of the affidavit with that by mentioning, by
18 the signature on that affidavit, of the document in the
19 affidavit, itself, rather than just by attachment.
20 In several instances there is actually no attachment
21 or any evidence that there has been attachment of the
22 affidavit to the document which it tends to declare
23 the origin thereof.

24 THE PRESIDENT: Let me see it, Mr. Mantz.
25 (Whereupon, a document was handed to the

1 President.)

2 THE PRESIDENT: Well, we have the affidavit,
3 and we have not on the exhibit attached, or the next
4 two attached, anything connecting it with the affidavit;
5 that is quite true, and that is not in order. The
6 Court may be satisfied with its source and authenticity,
7 nevertheless, or its origin, I should say. I will
8 refer that to the Members of the Court. It is cer-
9 tainly not in order.

10 It will be received conditionally.

11 MR. BROOKS: The last two documents are that
12 way; and it is not charging any intent on the part
13 of the prosecution to do anything wrong, but there is
14 a possibility for, inadvertently, a mistake or an error
15 to be made in documents of that type.

16 THE PRESIDENT: Of course, there may be enough
17 in the affidavit and in the document to place the
18 identity of the document beyond question. We will
19 have to examine that.

20 MR. TAVENNER: I will read exhibit 637.

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"Proceedings of the Privy Council, 3 July,
Showa 16 (1941)

"The Ratification of the Franco-Japanese Protocol, on Guarantee and Political Understanding, and of the Thai-Japanese Protocol on Guarantee and Political Understanding.

"Of the two protocols, the first states in
its preamble, that the Japanese and French Govern-
ments, desireing to maintain peace in East Asia,
recollecting the peaceful and friendly spirit which
led to the establishment of an agreement through
official documents exchanged on August 30 of last
year between Foreign Minister MATSUOKA and French
Ambassador HENRI, and prompted by the sincere desire
to uphold this spirit, desire to secure the stabil-
ization of the friendly relations which have been
restored between France and Thailand. In its body
the protocol provides:

"(1) That the Imperial Japanese government guarantees to the French government that the settlement of the dispute between France and Thailand resulting from Japan's mediation and as embodied in the aforementioned peace treaty and in the annexed documents is definite and unalterable;

"(2) That the French government accepts

1 the above guarantee, and will strive to maintain
2 peace in East Asia, and especially to establish
3 good neighborly, friendly relations and to promote
4 intimate economic relations between Japan and French
5 Indo-China; that furthermore, the French government
6 declares that it has no intention to conclude with
7 third powers any agreement or understanding concern-
8 ing French Indo-China which anticipates political,
9 economic, or military cooperation of a nature which
10 directly or indirectly opposes Japan. In addition,
11 the protocol fixes the ratification procedure and
12 the date of the enforcement of the protocol.

13 "The contents of the second protocol are
14 the same as those of the first protocol, except
15 that it cites in its preamble the treaty concluded
16 on 12 June last year between Japan and Thailand
17 concerning the continuation of friendly relations
18 and mutual respect of each other's territorial
19 integrity, and places no special regional restriction
20 on the arrangements with Third Powers, in the declar-
21 ation contained in the second paragraph of the body
22 of the protocol.

23 "It seems that these various arrangements
24 aim to secure the fulfilment of the stipulations
25 of the peace treaty which had been concluded as the

1 result of the settlement of the dispute between
2 France and Thailand through the Japanese Imperial
3 Government's mediation and also to promote good
4 neighborly, friendly relations between Japan and
5 French Indo-China, and between Japan and Thailand.
6 Inasmuch as these instruments will maintain the peace
7 of East Asia and contribute to Japan's establishment
8 of the New Order, their objects may be regarded as
9 proper, and the clauses contained therein deemed
10 to involve no special difficulties. Hence the
11 Judging Committee has unanimously decided that
12 each of the items of the bills under review be
13 either approved or ratified as drafted without any
14 amendment. We hereby report our findings.

15 "No. 10. (MATSUOKA): I have something
16 to say here as the responsible minister concerning
17 this subject. The subject should have been laid
18 before the plenary session, of the 18th of last
19 month, but was postponed for the convenience of
20 the session. Subsequently, however, in view of
21 the fact that we learned through the reports of our
22 Ambassador to France and also the representations
23 of the Vichy Government during the course of the
24 treaty negotiations, that the Vichy Government
25 held many opposing views and the Treaty was signed

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1 almost solely on the responsibility of Delegate
2 Roban /?/ I came to entertain the fear that the
3 French Government might not ratify the subject
4 treaty and also the Economic Agreement between
5 Japan and French Indo-China. Accordingly, I
6 requested a further postponement of the decision
7 on this item. However, having received from our
8 Ambassador to France at the end of last month that
9 the French government had finally decided to ratify
10 the two treaties, I decided to submit them for
11 your deliberations here. I trust that you would
12 appreciate the circumstances responsible for the
13 postponement.

14 "No. 22 (ISHII): Once, on the occasion
15 of the deliberation for the ratification of the
16 Soviet-Japanese Neutrality Treaty, I asserted that
17 the conclusion of that treaty was not only a success
18 of Japanese diplomacy, but also a great victory.
19 Probably the word 'Success' was not sufficient
20 to show the whole state of affairs. I called it
21 a 'victory', because at that time there was an
22 intense secret strife between Japan on the one
23 side and Britain and America on the side centering
24 around the Soviet Union. And yet Foreign Minister
25 MATSUOKA successfully overthrew Chamberlain and

1 Roosevelt and concluded a treaty with the Soviet
2 Union. The same applies to the various items now
3 under consideration. It is the victory of our
4 diplomacy that through the success of our mediation
5 in the dispute between Thailand and France, we
6 have caused a peace treaty to be concluded between
7 them. That is, Britain, looking upon Thailand as
8 if it were its own sphere of influence, had carried
9 on secret activities in various directions under
10 the leadership of Minister Crosby, who had been
11 a resident of Thailand for the past twenty years,
12 and had schemed to settle the dispute between the
13 two countries to its own advantage when the opportunity
14 presented itself. It is very gratifying
15 that Japan availed herself of the opportunity and
16 finally succeeded in placing Britain in the shade.
17 Well, it has been advocated by our government and
18 people in every way that our country is the stabilizing
19 force of East Asia, but now in the opportunity
20 that has presented itself for the first time we have
21 been able to truly prove our position. Especially
22 the point which I welcome with satisfaction is the
23 fact that our country's right to mediate, and hence
24 our position of leadership, has been acknowledged
25 by the provisions of Article 10 of the Franco-

Thai Peace Treaty, which provisions are, moreover,
1 permanently effective since the treaty is valid
2 for an indefinite period of time. Probably,
3 this advantage is more valuable than any other
4 advantages to be derived from both of Thailand
5 and France. If our country had obtained the cession
6 of a district or a province, it would no doubt
7 become the cause of enmity toward us in the future,
8 but the disposition made by our country at this
9 time has all the more enhanced the reputation of
10 our country by an unselfish, fair act, seeking
11 nothing whatever for ourselves.

"It should be called the fruits of our
13 so-called Imperial Way diplomacy. From these
14 points of view, I wish to express my respect and
15 congratulations to Foreign Minister MATSUOKA and
16 the other members of the present Cabinet."

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1 "No. 26 (SHIMIZU): Recently several coun-
2 tries of Europe have recognized the National Govern-
3 ment at Nanking, but what is the attitude of Thailand
4 towards that government?

5 "No. 10 (MATSUOKA): On the one hand, from
6 the standpoint that Thailand is farther from Nanking
7 than from Chunking, she is in a delicate situation;
8 and on the other hand, even though Japan's mediation
9 has proved successful, British influence in Thailand
10 remains unshakable. Therefore, it is very difficult
11 to expect Thailand to recognize the Nanking Government.
12 When our country's political and economic power has
13 steadily penetrated into that country and when the
14 Thailand Government authorities will not find them-
15 selves in a perplexing position should they recognize
16 the Nanking Government, we shall grasp the opportuni-
17 ty then to take proper measures.

18 "No. 26 (SHIMIZU): In spite of the exis-
19 tence of a treaty pact of non-aggression between
20 Germany and the Soviet Union, war has broken out be-
21 tween the two powers. Whom should we regard as the
22 breaker of the treaty? Japan has concluded an alli-
23 ance treaty with Germany and a neutrality treaty with
24 the Soviet Union. For our information, please let us
25 know our country's future attitude in this connection.

1 "No. 10 (MATSUOKA): Two years ago Germany,
2 facing the imminent crisis of a war with Britain, con-
3 cluded a treaty with the Soviet Union as a temporary
4 expedient lest the latter should be won over to
5 Britain's side. At that time Germany explicated to
6 Japan that this was an unavoidable disposition, and
7 explained that her real intention was to detest and
8 suppress, when opportunity presented itself, not only
9 the Soviet Union's aggressive principle, but also the
10 ideology embraced by that country. It seemed that the
11 Soviet Union also knew the circumstance very well and
12 planned to strike Germany after waiting for a favor-
13 able time. The reasons for starting the war have been
14 published by both governments, but, after all, the Non-
15 Aggression Treaty between Germany and the Soviet Union
16 was but a temporary expedient to both of them.

17 "No. 35. (FUKAI): Since I share in general
18 the opinion of Councillor ISHII, I am glad to offer
19 my congratulation to the government authorities. How-
20 ever, I think there is one point in the subject item
21 which deserves consideration. Perhaps third powers
22 might take it as a symbol of our aggressive policy if
23 we look upon ourselves as the stabilizing force of
24 East Asia. For instance, in regard to the documents
25 dated August 31 of last year which were exchanged be-

1 tween Japan and France, our Prime Minister explained
2 that he was unable to take the formalities for the
3 submission of the documents for the deliberation of
4 the Privy Council, because he had to seize a moment
5 when France was fearful of our country's actions.
6 Although I think that such a measure is sometimes
7 necessary and should not be repreached, yet, insofar
8 as our purpose is to become truly the stabilizing and
9 guiding force of East Asia and to show the world our
10 Imperial Way, we should have the fundamentally re-
11 quired attitude of mind. That is, on the occasion of
12 the deliberations on the Sino-Japanese Basic Treaty,
13 the Privy Council made it clear that the cardinal
14 point is to win the sentiments of the Chinese people.
15 I think the same can be said in our relations with
16 French Indo-China and Thailand. Unless we succeed
17 in winning the sentiments of the people, it cannot be
18 said to be perfect. In my opinion this deserves
19 full consideration. It is under such a state of mind
20 that I support this subject item.

21 "President (HARA) As there are no further
22 remarks, we shall immediately take a vote. All those
23 in favor, please rise.

24 "(All rise).
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1 "President (HARA) It has been carried unan-
2 imously.

3 "President (HARA) Next we shall take up
4 for deliberation the item of the ratification of the
5 Franco-Japanese Treaty of Residence and Navigation
6 concerning French Indo-China, and of the Franco-Japa-
7 nese Agreement concerning the customs system, trade
8 and the modalities of settlement of accounts between
9 Japan and French Indo-China."

10 I will omit reading the rest of this document.

11 If the Tribunal please, I will omit reading
12 only that part of the document down to No. 10 on page
13 10.

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1 "No. 10 (MITSUOKA): Looking back at the cir-
2 cumstances surrounding the exchange of the official
3 documents on August 30 of last year, Japan made France
4 acknowledge our political superiority and at the same
5 time, as the result of it, to agree to the advance of
6 Japanese forces into French Indo-China. Later on
7 France submitted herself to our mediation in the dis-
8 pute with Thailand. These two points are the most
9 conspicuous embodiments of our country's political
10 superiority. Concerning the economic problem, which
11 constitutes the substance of this draft, our people
12 are able to enjoy in French Indo-China the same treat-
13 ment as French nationals in respect to specially de-
14 signated matters. That is, these are the results of
15 the acknowledgment of our superiority. We find almost
16 no example of it in the history of colonization. In
17 respect to other points, I cannot say that they are
18 always satisfactory. However, my reason for consider-
19 ing this draft as satisfactory is based on the funda-
20 mental diplomatic concept which demands the retrieval
21 of our international reputation which has been completely
22 lost since the Manchurian Incident.

23 "Inasmuch as France, in view of the fact that
24 she had been defeated in the war against Germany, al-
25 ready recognized last year our superior position and

1 agreed to export to Japan the full quantity of polished
2 rice as demanded by Japan, which is a matter of life
3 and death to Japan, I thought that it would enhance
4 our country's reputation if we were satisfied with
5 half of our demands in respect to other matters.
6 Through the efforts of my subordinates, we finally
7 succeeded in getting 50% of our demands. While on the
8 one hand I appreciated their services, I reproached
9 them for not stopping at a point where 50% of our do-
10 mands had been accepted. On reflection, I observe
11 that the fact that France recognized our leadership
12 in East Asia is in itself alone a very important mat-
13 ter. We will do our best to expand and embody it in
14 the future. It is impossible to realize all of the
15 items in a short period of time. Considering from
16 the foregoing circumstances, I think the agreement,
17 as it is, gives us more than we should expect.

18 "No. 22. (ISHII): I am very surprised at
19 your explanation. I did not discuss the exchanged
20 official documents of August last year, but I asked
21 how the content of the said official documents, that
22 is, the recognition by France of our country's superior
23 position, has been utilized and how it has been embodied.
24 Now that France has recognized our superior position,
25 we do not by any means lose our prestige if we make

1 her offer the real substance of this recognition.
2 While on the one hand I do not grudge due admiration
3 and praise for the fact that, in mediating between
4 Thailand and France, we did not demand for ourselves
5 any cession of a district or a state, on the other
6 hand I cannot but regret that you consider that we ob-
7 tained more than we should expect when we obtained
8 80% of our demands in concluding the economic agree-
9 ment under review. Although we obtained the necessary
10 quantity of polished rice, it is only a normal dealing
11 and nothing strange for us to purchase the surplus
12 rice left after filling the requirements of France
13 and her colonies."

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1 I will not read the remainder of the report.
2 THE PRESIDENT: Well, it is four o'clock now.
3 We will recess until half past nine tomorrow
4 morning.

5 (Whereupon, at 1600, an adjournment
6 was taken until Friday, 4 October 1946, at
7 0930.)

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